S. Hrg. 100-282

UNDETECTABLE FIREARMS

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 465

A BILL TO AMEND CHAPTER 44, TITLE 18, UNITED STATES CODE, TO PROHIBIT THE MANUFACTURE, IMPORTATION, SALE, OR POSSESSION OF FIREARMS, NOT DETECTABLE BY METAL DETECTION AND X-RAY SYSTEMS COMMONLY USED AT AIRPORTS IN THE UNITED STATES

JULY 28, 1987

Serial No. J-100-32

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
77-380 WASHINGTON : 1987

S521-6

COMMITTEE ON THE JUDICIARY

JOSEPH R. BIDEN, Jr., Delaware, *Chairman*

EDWARD M. KENNEDY, Massachusetts
ROBERT C. BYRD, West Virginia
HOWARD M. METZENBAUM, Ohio
DENNIS DeCONCINI, Arizona
PATRICK J. LEAHY, Vermont
HOWELL HEFLIN, Alabama
PAUL SIMON, Illinois

STROM THURMOND, South Carolina
ORRIN G. HATCH, Utah
ALAN K. SIMPSON, Wyoming
CHARLES E. GRASSLEY, Iowa
ARLEN SPECTER, Pennsylvania
GORDON J. HUMPHREY, New Hampshire

Mark H. Gitenstein, *Chief Counsel*
Diana Huffman, *Staff Director*
Dennis W. Shedd, *Minority Chief Counsel*

Subcommittee on the Constitution

PAUL SIMON, Illinois, *Chairman*

HOWARD M. METZENBAUM, Ohio
DENNIS DeCONCINI, Arizona
EDWARD M. KENNEDY, Massachusetts

ARLEN SPECTER, Pennsylvania
ORRIN G. HATCH, Utah

Deborah Leavy, *Chief Counsel and Staff Director*
Jeffrey Robinson, *Minority Chief Counsel*

CONTENTS

OPENING STATEMENT

Page

Metzenbaum, Hon. Howard M., a U.S. Senator from the State of Ohio 1

PROPOSED LEGISLATION

S. 465—A bill to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems commonly used at airports in the United States 3

CHRONOLOGICAL LIST OF WITNESSES

Panel consisting of Stephen E. Garmon, Deputy Director, U.S. Secret Service; Daniel M. Hartnett, Deputy Associate Director of Law Enforcement, Bureau of Alcohol, Tobacco and Firearms; and Raymond A. Salazar, Director of Civil Aviation Security, Federal Aviation Administration 6

Panel consisting of Hubert Williams, president, Police Foundation, on behalf of the Law Enforcement Steering Committee; Richard F. Lally, assistant vice president of security, Air Transport Association; and H.L. Bradley, chairman, National Flight Security Committee, Air Line Pilots Association.. 23

Panel consisting of Emanuel Kapelsohn president, Peregrine Corp.; James Jay Baker, director, governmental affairs division, National Rifle Association; and Stephen P. Halbrook, Fairfax, VA 40

ALPHABETICAL LISTING AND MATERIAL SUBMITTED

Baker, James Jay:
  Testimony 46
  Prepared statement 50
Bradley, H.L.: Testimony 37
Garmon, Stephen E.:
  Testimony 6
  Prepared statement 8
Halbrook, Stephen P.:
  Testimony 57
  Prepared statement plus additional material 61
Hartnett, Daniel M.:
  Testimony 11
  Prepared statement 15
Kapelsohn, Emanuel: Testimony 40
Lally, Richard F.:
  Testimony 26
  Prepared statement 29
Salazar, Raymond A.: Testimony 19
Williams, Hubert: Testimony 23

APPENDIX

Additional Submissions for the Record

Prepared statement of the Airport Operators Council International 107

"The Myths Surrounding the Plastic Gun: Facts, Not Fear," report by Red Eye Arms, Inc 112

Page

Prepared statement of David J. Steinberg, executive director, National Council for a Responsible Firearms Policy, Inc 115

Letter to Senator Howard Metzenbaum, from John D. Armour, chairman, Safety and Security Committee, American Association of Airport Executives, Alexandria, VA 116

UNDETECTABLE FIREARMS

TUESDAY, JULY 28, 1987

U.S. Senate,
Subcommittee on the Constitution,
Committee on the Judiciary,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Howard Metzenbaum presiding.

Also present: Senator Specter.

Staff present: Mary Louise Westmoreland, counsel; Eddie Correia, chief counsel; Lisa DeFusco, staff assistant, Subcommittee on Antitrust, Monopolies and Business Rights.

OPENING STATEMENT OF SENATOR HOWARD M. METZENBAUM

Senator Metzenbaum. The hearing will come to order.

We are all familiar with metal detectors. At airports, we go through them, public buildings, and other sensitive locations. I went to the Bolshoi Ballet the other evening; everybody had to go through a metal detector.

That simple device has been remarkably successful in preventing terrorism and saving lives, but today changes in technology are threatening that record and jeopardizing the safety of the public.

The Office of Technology Assessment and other experts predict that plastic and ceramic firearms will soon be available, but security devices capable of detecting these non-metallic guns do not yet exist.

This means that American people, including the millions and millions of air travelers, are facing a dangerous technology gap, a gap that can easily be exploited by terrorists and other criminals.

To close this gap, I introduced S. 465. This legislation would prohibit the sale, manufacture, or possession of any firearm that does not meet minimum detectability standards defined in the bill.

I am pleased that this bill has been cosponsored by the ranking members of the Judiciary Committee, Senator Thurmond, Senator Kassebaum, Senator Chafee, Senator Kennedy, and Senator Dodd.

Contrary to the representations of the gun lobby, S. 465 would not ban the Glock 17 or any other firearm that contains amounts of metal sufficient to trigger a metal detector set to the standards specified in the bill. We have a number of guns here on the table today and we will discuss that matter, but there is enough metal in those to set off the alarm.

Nor would it affect any sporting weapon now available in America, and I want to emphasize that. It will not affect any sporting weapon now available in America.

I want to make one point clear. I am not against the development of new technologies, nor plastic firearms as long as they pose no threat to our security. When we have equipment in place to detect non-metal guns, I have no objection to their manufacture, import, sale, or possession.

For that reason, when the bill is considered by the committee I will offer an amendment to require the FAA to report to Congress when the technology is in place to detect non-metallic firearms. Once the technology gap is closed, the law can be changed.

Some would argue that until plastic weapons are available, there is no need for this legislation. But to say that, is to say we should first wait for a plane to be hijacked or a courtroom to be disrupted by gun shots before we act.

Remember, too, that metal detectors are used to protect prominent public officials and visiting heads of State from needless loss of life. Can we afford to jeopardize their security?

Today, we have an opportunity to go on the offensive against terrorism. Instead, if we recklessly fail to make sure our security technology precedes the introduction of plastic firearms, the Congress will have failed in our obligations to the American people.

We have a distinguished list of witnesses with us this morning. Our first witness is Stephen Garmon, Deputy Director of the U.S. Secret Service. We are very happy to have you with us, Mr. Garmon.

We have told all of our witnesses today that we will include in the record their full statements. We are asking them to confine their remarks to 5 minutes.

[Text of S. 465 follows:]

100TH CONGRESS
1ST SESSION

S. 465

To amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems commonly used at airports in the United States.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1987

Mr. METZENBAUM introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems commonly used at airports in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 922 of title 18, United States Code, is amended by adding after subsection (o) the following:

"(p)(1) It shall be unlawful for any person to manufacture, import, sell, possess, transfer, receive, ship, or deliver any firearm that the Secretary determines—

"(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines in walk through metal detectors approved by the Federal Aviation Administration for use at airports in the United States; and

"(B) is not identifiable as a firearm, or readily detectable, by cabinet x-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1020.40(b)(3)), designed for inspection of carry-on baggage.

"(2) For the purposes of this section, the term—

"(A) 'firearm' means any completely assembled and fully operable weapon as defined in paragraphs (A), (C), and (D) of section 921(a); and

"(B) Minimum Security Standard Exemplar means a firearm substitute, used for testing, resembling a North American Arms .22 caliber rim fire weapon, which is 4½ inches in length, 2 inches in height, material type 17–4 PH stainless steel or 1040 mild steel, weighing 8½ ounces.

(b) Section 925 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall not authorize the importation, pursuant to subsection (d), of any firearm that—

"(1) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines in walk through metal detectors approved by the Federal Aviation Administration for use at airports in the United States; and

"(2) is not identifiable as a firearm, or readily detectable, by cabinet x-ray systems, defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1040.20(b)(3)), designed for inspection of carry-on baggage.

SEC. 2. This Act and the amendments made by this Act shall become effective upon the date of enactment of this Act but shall not apply to the possession, by any person, of any firearm to which the provisions of section 922(p)(1) of title 18, United States Code, apply if such firearm was manufactured prior to the date of enactment of this Act.

○

Senator METZENBAUM. Mr. Garmon.

STATEMENTS OF A PANEL CONSISTING OF STEPHEN E. GARMON, DEPUTY DIRECTOR, U.S. SECRET SERVICE; DANIEL M. HARTNETT, DEPUTY ASSOCIATE DIRECTOR OF LAW ENFORCEMENT, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS; AND RAYMOND A. SALAZAR, DIRECTOR OF CIVIL AVIATION SECURITY, FEDERAL AVIATION ADMINISTRATION

Mr. GARMON. Thank you, Mr. Chairman. I am pleased to appear today before you.

Senator METZENBAUM. Could you bring the mike a little closer to you and speak a little louder, please?

Mr. GARMON. I am pleased to appear today before you and the other members of this subcommittee to testify regarding proposed legislation aimed at curbing the manufacture, importation, sale, or possession of firearms that cannot be detected by metal detectors or x-ray systems of the type commonly used in U.S. airports.

The issues before this subcommittee are of major concern to the U.S. Secret Service. The spread of international terrorism brings these issues even more to the forefront. The Secret Service and the Federal Aviation Administration are perhaps the two leading agencies in the United States, and perhaps the world, in the handgun detection business.

Among the tools we utilize in this effort are magnetometers and x-ray devices. The weapons detection program of the Federal Aviation Administration is especially of interest to the Secret Service. We—the Secret Service, that is—frequently travel on commercial aircraft with certain of those individuals that we provide protection for. This travel will be significantly increasing with the coming presidential campaign when candidates will frequently be using commercial aviation.

We have to rely to a large degree on the effectiveness of the various airport security screening systems for reasonable assurance that passengers who board regularly scheduled commercial aircraft on which our protectees travel have been effectively screened for dangerous weapons, especially for handguns.

Any obstacle to the effectiveness of these screening programs increases the potential danger not only for those we are charged to protect, but for the general public as well. Handguns which are manufactured from materials that elude detection by airport security systems are certainly such obstacles.

In addition to the very important detection systems in our airports, we in the Secret Service have developed our own programs to deal with the unique requirements of our protective mission for locations such as the White House and other sites visited by our various protectees.

These programs have been very successful thus far. We feel that the threat posed by non-metallic handguns is significant and could potentially have a devastating impact on our protective mission.

I would like to offer for this subcommittee's review some statistical data which focuses on the necessity for effective weapons detection for the Secret Service. At the White House and other sites visited by the President and other persons we are charged to protect, we routinely utilize weapons screening devices.

At the White House in calendar year 1986, our screening efforts identified 240 dangerous weapons; 74 of these were handguns. During the period October 1986 through 1987, our weapons screening program in support of our protective activities away from the White House identified 945 dangerous weapons; 198 of these were handguns.

Mr. Chairman, I think these statistics indicate that there are a significant number of people walking around with handguns. Many of those are individuals who disregard laws and regulations prohibiting such weapons in certain areas, including the White House.

To make available to such individuals a weapon which is even more difficult to detect could place the safety and security of our protectees, as well as of the general public, in jeopardy.

It is noteworthy, Mr. Chairman, that the effectiveness of the U.S. Secret Service's screening program is closely paralleled by those in place right here at the U.S. Capitol. It strikes us that your program is threatened in like manner as our own with the advent of non-metallic handguns.

For these reasons, Mr. Chairman, the Secret Service supports legislation, and indeed any efforts to deal with the serious issue of non-metallic handguns and the potential threat that they pose.

Thank you very much.

Senator METZENBAUM. Thank you very much, Mr. Garmon. If non-metallic firearms appear on the market before detection equipment is available for these guns, what changes will you have to make in your security procedures?

Mr. GARMON. If you will allow me to presume that non-metallic means absolutely no metal contained in the weapon——

Senator METZENBAUM. Right.

Mr. GARMON. Then I think we would have no alternative but to do hand searches of individuals seeking access to those areas that we are concerned with.

Senator METZENBAUM. You would have to do hand searches?

Mr. GARMON. Yes, and I think that would be viewed as an unreasonable precaution not only by those whom we protect, but by the public at large.

Senator METZENBAUM. Is it possible that you might get to the point that you would have to close off access to places such as the White House?

Mr. GARMON. I think that is a very real possibility. It is certainly a position that the Secret Service would espouse.

Senator METZENBAUM. How would you protect presidential candidates traveling on commercial aircraft?

Mr. GARMON. If I could request a response in an executive session on that, I think that would be more appropriate than in a public forum.

Senator METZENBAUM. That is perfectly understandable and perfectly appropriate, and we will work it out in that manner.

Mr. GARMON. All right.

Senator METZENBAUM. Thank you, Mr. Garmon.

[The prepared statement of Mr. Garmon follows:]

Introductory Statement of
Stephen E. Garmon, Deputy Director
U.S. Secret Service

MR. CHAIRMAN, I AM PLEASED TO APPEAR TODAY BEFORE YOU AND THE OTHER MEMBERS OF THIS SUBCOMMITTEE TO TESTIFY REGARDING PROPOSED LEGISLATION AIMED AT CURBING THE MANUFACTURE, IMPORTATION, SALE OR POSSESSION OF FIREARMS THAT CANNOT BE DETECTED BY METAL DETECTORS OR X-RAY SYSTEMS OF THE TYPE COMMONLY USED IN U.S. AIRPORTS.

THE ISSUES BEFORE THIS SUBCOMMITTEE ARE OF MAJOR CONCERN TO THE U.S. SECRET SERVICE. THE SPREAD OF INTERNATIONAL TERRORISM BRINGS THESE ISSUES EVEN MORE TO THE FOREFRONT. THE U.S. SECRET SERVICE AND THE FEDERAL AVIATION ADMINISTRATION ARE THE TWO LEADING AGENCIES IN THE UNITED STATES AND, PERHAPS THE WORLD, IN THE HANDGUN DETECTION BUSINESS. AMONG THE TOOLS WE UTILIZE IN THIS EFFORT ARE MAGNETOMETER AND X-RAY TYPE DEVICES.

THE WEAPONS DETECTION PROGRAM OF THE FEDERAL AVIATION ADMINISTRATION IS ESPECIALLY OF INTEREST TO THE U.S. SECRET SERVICE. WE FREQUENTLY TRAVEL ON COMMERCIAL AIRCRAFT WITH CERTAIN OF OUR PROTECTEES. THIS TRAVEL WILL BE SIGNIFICANTLY INCREASED WITH THE COMING PRESIDENTIAL CAMPAIGN, WHEN CANDIDATES WILL FREQUENTLY BE USING COMMERCIAL AVIATION. WE HAVE TO RELY, TO A LARGE DEGREE, ON THE EFFECTIVENESS OF THE VARIOUS AIRPORT SECURITY SCREENING SYSTEMS, FOR REASONABLE ASSURANCE THAT PASSENGERS WHO BOARD REGULARLY SCHEDULED COMMERCIAL AIRCRAFT ON WHICH OUR PROTECTEES TRAVEL HAVE BEEN SCREENED FOR DANGEROUS WEAPONS, ESPECIALLY HANDGUNS IN THEIR

POSSESSION. ANY OBSTACLES TO THE EFFECTIVENESS OF THESE SCREENING PROGRAMS INCREASE THE POTENTIAL DANGER, NOT ONLY FOR THOSE WE ARE CHARGED TO PROTECT, BUT FOR THE GENERAL PUBLIC AS WELL. HANDGUNS, WHICH ARE MANUFACTURED FROM MATERIALS THAT ELUDE DETECTION BY AIRPORT SECURITY SYSTEMS, ARE CERTAINLY SUCH OBSTACLES.

IN ADDITION TO THE VERY IMPORTANT DETECTION SYSTEMS IN OUR AIRPORTS, WE IN THE U.S. SECRET SERVICE HAVE DEVELOPED OUR OWN PROGRAMS TO DEAL WITH THE UNIQUE REQUIREMENTS OF OUR PROTECTIVE MISSION FOR LOCATIONS SUCH AS THE WHITE HOUSE AND OTHER SITES VISITED BY OUR VARIOUS PROTECTEES. THESE PROGRAMS HAVE BEEN VERY SUCCESSFUL THUS FAR. WE FEEL THAT THE THREAT POSED BY NON-METALLIC HANDGUNS ARE SIGNIFICANT AND COULD POTENTIALLY HAVE A DEVASTATING IMPACT ON OUR PROTECTIVE MISSION.

I WOULD LIKE TO OFFER, FOR THIS SUBCOMMITTEE'S REVIEW, SOME STATISTICAL DATA WHICH FOCUSES ON THE NECESSITY FOR EFFECTIVE WEAPONS DETECTION FOR THE U.S. SECRET SERVICE.

AT THE WHITE HOUSE AND OTHER SITES VISITED BY THE PRESIDENT AND OTHER PERSONS WE ARE CHARGED TO PROTECT, WE ROUTINELY UTILIZE WEAPONS SCREENING DEVICES. AT THE WHITE HOUSE, IN CALENDAR YEAR 1986, OUR SCREENING EFFORTS IDENTIFIED 240 DANGEROUS WEAPONS; 74 OF THESE WERE HANDGUNS. DURING THE PERIOD OCTOBER 1986 THROUGH JUNE 1987, OUR WEAPONS SCREENING PROGRAM IN SUPPORT OF OUR PROTECTIVE ACTIVITIES AWAY FROM THE

WHITE HOUSE IDENTIFIED 945 DANGEROUS WEAPONS; 198 OF THESE WERE HANDGUNS.

MR. CHAIRMAN, I THINK THESE STATISTICS INDICATE THAT THERE ARE A SIGNIFICANT NUMBER OF PEOPLE WALKING AROUND WITH HANDGUNS; INDIVIDUALS WHO DISREGARD LAWS AND REGULATIONS PROHIBITING SUCH WEAPONS IN CERTAIN AREAS, INCLUDING THE WHITE HOUSE. TO MAKE AVAILABLE TO SUCH INDIVIDUALS A WEAPON WHICH IS MORE DIFFICULT TO DETECT COULD PLACE THE SAFETY AND SECURITY OF OUR PROTECTEES, AS WELL AS OF THE GENERAL PUBLIC, IN JEOPARDY.

IT IS NOTEWORTHY, MR. CHAIRMAN, THAT THE EFFECTIVENESS OF THE U.S. SECRET SERVICE'S SCREENING PROGRAM IS CLOSELY PARALLELED BY THOSE IN PLACE AT THE U.S. CAPITOL. IT STRIKES US THAT YOUR PROGRAM IS THREATENED IN LIKE MANNER AS OURS WITH THE ADVENT OF NON-METALLIC HANDGUNS.

FOR THESE REASONS, MR. CHAIRMAN, THE U.S. SECRET SERVICE SUPPORTS THIS VERY IMPORTANT PROPOSED LEGISLATION AND, INDEED, ANY EFFORTS TO DEAL WITH THE SERIOUS ISSUE OF NON-METALLIC HANDGUNS AND THE POTENTIAL THREAT THEY POSE.

THANK YOU, MR. CHAIRMAN.

Senator METZENBAUM. Mr. Daniel M. Hartnett, Deputy Associate Director of Law Enforcement, Bureau of Alcohol, Tobacco and Firearms. We are happy to have you with us, Mr. Hartnett.

Mr. HARTNETT. Good morning, Mr. Chairman. If I may, I would like to introduce Mr. Ed Owens. He is chief of our Firearms Technology Branch and he is here this morning to assist us.

Senator METZENBAUM. Can you spell his last name?

Mr. HARTNETT. Owens, O-w-e-n-s.

Senator METZENBAUM. Oh, Owens, I am sorry. Bring the mike a little closer, please.

Mr. HARTNETT. Yes, sir.

Senator METZENBAUM. Thank you.

STATEMENT OF DANIEL HARTNETT

Mr. HARTNETT. If I may, I would like to briefly read a brief statement, if I may, this morning.

I welcome the opportunity to discuss the issue of the so-called plastic guns and their potential for detectability by security systems. With your permission, Mr. Chairman, I will comment on ATF's view of the best way to approach this issue with a few general comments on the several bills under consideration in this area.

Senator METZENBAUM. Mr. Hartnett, I can hear you, but I am sitting in front of you. I am concerned that there are people out there in the audience who cannot, so if you will just pull it up closer and get it towards your mouth.

Mr. HARTNETT. Okay.

Senator METZENBAUM. It is not the greatest microphone, probably, that is available.

Mr. HARTNETT. I hope that is better.

Senator METZENBAUM. That is better. Thank you.

Mr. HARTNETT. I would like to commend the committee for focusing early attention on this problem and the potential problems inherent in the efforts of law enforcement agencies to ensure security of public buildings, airports, and other gathering places.

We too are concerned about effective security in this area of terrorism and we are pleased to be able to contribute our expertise in the firearms and explosive area to this ongoing discussion.

As of today, we have seen no evidence that any firearm currently being produced is intrinsically capable of passing undetected through conventional x-ray and metal detector systems.

However, firearms technology, like most technologies, is in a constant state of rapid development. In the future, the industry may be able to develop a firearm that is truly undetectable by security systems, but it will be extremely difficult under current law to make and distribute such a firearm legally.

The criteria under 18 U.S.C. 923(i) and 27 CFR 178.92 requires engraving, casting or stamping, identifying information on the frame, barrel or receiver of the firearm in a manner that cannot be readily obliterated, altered or removed.

Even the most durable of currently available plastics and polymers would not meet this statutory requirement. The manufacture of a firearm without the required markings is a felony, which acts as something of a deterrent and limits to some degree the development of an all-non-metal firearm.

We recognize, however, that since we cannot bar the development of raw materials from which an all-non-metal firearm might some day be produced, we cannot prevent the making of this type of weapon under current law.

Even with additional statutory provisions, we believe the best answer lies, in part, in the research and development of more effective security systems. A security approach which focuses on firearms construction alone is not the most effective way to tackle the problem.

Security operations and technology must be continually examined to find ways to keep pace with the rapidly developing firearms technology.

All of the proposed legislation proposes banning certain firearms that do not meet the standards of detectability. One of the problems in focusing on firearms technology is the difficulty of establishing a clear set of standards by which firearms are evaluated.

We must be careful in setting those standards that we do not adversely affect the lawful manufacture and transfer of sporting weapons. For example, proposed legislation H.R. 1002 focuses on the concept of readily detectable as a firearm by the standard security equipment commonly used at airports without outlining what either readily detectable or standard imply.

Hypothetically, all non-metal firearms would be of sufficient mass and density to be readily detectable by x-ray equipment in use today. Similarly, the term "readily identifiable as a firearm" is also unclear.

Proposed legislation under H.R. 2845 defines plastic firearms as "any firearm which any frame, receiver, barrel, slide and cylinder are entirely made of plastic, ceramics or polymers." The proposed legislation could be circumvented by merely fabricating one of the parts—the barrel, for example—of metal. That is a loophole that could negate the intent of the law. The same problem would apply in the case of importation.

In addition, H.R. 2845 calls for an advisory panel composed of individuals appointed by the Secretary of Treasury from law enforcement, firearms manufacturers, and private organizations concerned about firearms issues, and a representative from the Federal Aviation Administration.

The focus here again is on firearms technology and manufacturing instead of on ongoing upgrading of security systems. We do not believe that such a panel could come to any meaningful conclusions.

This proposed legislation also does not define "readily detectable" and "readily identifiable." In any criminal statute, the public must be put on notice as to what constitutes a crime. Vagueness could open the legislation to a challenge on constitutional grounds.

Perhaps there are minimum levels of metal that a metal detector will find that can be quantified and used as a standard with little or no impact on existing commerce in firearms.

However, this standard would not affect foreign-made firearms not intended for import or those individuals who would operate outside the law. The answer again seems to lie in improved security and technological operations. It is highly probable that if we take the needed steps to improve these disciplines, additional and perhaps unnecessary controls on firearms materials would not be required.

We will continue to work with the Department of Justice with a view of creating fair, enforceable legislation in this area.

I will be happy to answer any questions which you may have, sir.

Senator METZENBAUM. Thank you, Mr. Hartnett, and I also want to thank you for the cooperation that the Bureau and Director Steve Higgins have given us in connection with this legislation, as well as the strong law enforcement record that the Bureau has had over a period of many years.

Mr. HARTNETT. Thank you.

Senator METZENBAUM. Mr. Hartnett, you say that under current law it would be very difficult to make a plastic firearm legally because the law requires that the serial number be permanently imprinted on the barrel.

Could this requirement not be fulfilled by attaching a very small metal plate containing the serial number?

Mr. HARTNETT. Yes, sir, it could.

Senator METZENBAUM. So current law really would not prevent the manufacture or import of non-metallic guns, would it?

Mr. HARTNETT. No, sir.

Senator METZENBAUM. Your answer is no?

Mr. HARTNETT. Yes.

Senator METZENBAUM. Your answer is yes to the answer no, okay.

Mr. HARTNETT. Yes. [Laughter.]

Senator METZENBAUM. Plastic guns are not yet on the market, but they could be very soon. Equipment to detect plastic guns is at least two years away. Do you think that it is important from a public safety standpoint to close that technology gap?

Mr. HARTNETT. Yes, sir, I feel it is very important.

Senator METZENBAUM. And is not the time to act now before a problem arises and some loss of life occurs?

Mr. HARTNETT. Yes, sir, we would agree with that wholeheartedly.

Senator METZENBAUM. Now, we agree that current law would not be an effective barrier to the dissemination of plastic guns. We also agree that it is important to act now to close the technology gap so that the security of our airports and our public buildings is not jeopardized.

As the agency that would be responsible for enforcing any law we pass to deal with this problem, do you not think that S. 465 actually does the job?

Mr. HARTNETT. It certainly comes closer than any legislation we have seen thus far. Other than probably one area, we feel that the bill——

Senator METZENBAUM. Other than probably what?

Mr. HARTNETT. One area that we feel that the bill could be enhanced in. We feel that the bill in its entirety is closer to what we want than any other bill we have seen.

Senator **Metzenbaum**. And is there any way that we can improve it so that it would meet the total objectives which I think you and we share?

Mr. **Hartnett**. Continuing technology comes to mind; that we should be looking at changes in the future at what is going to happen to the industry.

Senator **Metzenbaum**. Certainly, we all agree that changes in the future technology—if technology becomes available to detect plastic guns, then we do not really need this legislation, and the bill has a mechanism to permit the FAA to take action waiving the impact of the law if and when that technology becomes available. But until it does, this bill would do the job, would it not?

Mr. **Hartnett**. Yes, sir, it would.

Senator **Metzenbaum**. Do you know of any sporting weapon now available in this country that would be affected by S. 465?

Mr. **Hartnett**. No, sir, none at all.

Senator **Metzenbaum**. So this bill will not affect the right of sportspersons, sportsmen, sportswomen, to buy and use their guns. It has no impact upon their rights?

Mr. **Hartnett**. No, sir, it does not.

Senator **Metzenbaum**. My staff points out to me that the bill does not have that provision I mentioned about the waiver provision. I have previously announced, I believe, in my opening statement or at some point that I will offer it in committee, but we may assume that it will at the appropriate time be offered. So I just corrected my own question to you.

Thank you very much, Mr. Hartnett. Your testimony is very helpful.

Mr. Raymond Salazar, Director of Civil Aviation Security for the Federal Aviation Administration, we are happy to have you with us.

Pardon me. Did the gentleman with you care to make any comment? Was there anything additional? I did not care to preclude him from doing so.

Mr. **Hartnett**. No, sir. He was just here to answer any technical questions that may arise.

Senator **Metzenbaum**. I do not know enough to ask the technical questions. [Laughter.]

[Prepared statement of Mr. Hartnett follows:]

TESTIMONY OF
DANIEL M. HARTNETT
DEPUTY ASSOCIATE DIRECTOR
LAW ENFORCEMENT
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Mr. Chairman, members of the subcommittee:

I welcome the opportunity to discuss the issue of the so-called plastic guns and their potential for detectability by security systems. With your permission, Mr. Chairman, I will comment on ATF's view of the best way to approach this issue, with a few general comments on the several bills under consideration in this area.

I would like to commend this committee for focusing early attention on the problem, and potential problems inherent in the efforts of law enforcement agencies to ensure the security of public buildings, airports and other gathering places.

We too are concerned about effective security in this era of terrorism and we are pleased to be able to contribute our considerable experience and expertise in the firearms and explosives area to this ongoing discussion.

As of today, we have seen no evidence that any firearm currently being produced is intrinsically capable of passing undetected through conventional x-ray and metal detector systems.

However, firearms technology, like most technologies, is in a constant state of rapid development. In the future, the industry may be able to develop a firearm that is truly undetectable by security systems. But it will be extremely difficult, under current law, to make and distribute such a firearm legally. The criteria under 18 USC 923 (i) and 27 CFR 178.92 requires engraving, casting, or stamping identifying information on the frame, barrel, or receiver of the firearm in a manner that cannot be readily obliterated, altered, or removed. Even the most durable of currently available plastics and polymers would not meet this statutory requirement.

The manufacture of a firearm without the required markings is a felony, which acts as something of a deterrent and limits to some degree the development of an all nonmetal firearm.

We recognize, however, that since we cannot bar the development of raw materials from which an all nonmetal firearm might someday be produced, we cannot prevent the making of this type of weapon under current law. Even with additional statutory prohibitions, we believe the best answer lies, in part, in the research and development of more effective security systems.

A security approach which focuses on firearms construction alone is not the most effective way to tackle the problem. Security operations and technology must be continually examined to find ways to keep pace with rapidly developing firearms technology.

All of the proposed legislation proposes banning certain firearms that do not meet certain standards of detectability.

One of the problems in focusing on firearms technology is the difficulty of establishing a clear set of standards by which firearms are evaluated. We must be careful, in setting those standards, that we do not adversely affect the lawful manufacture and transfer of sporting weapons.

For example, Mr. Mrazek's proposed legislation -- H.R. 1002 -- focuses on the concept of "readily detectable as a firearm by the standard security equipment commonly used at airports" without outlining what either "readily detectable" or "standard" imply. Hypothetically, an all non-metal firearm would be of sufficent mass and density to be readily detectable by x-ray equipment in use today. Similarly, the term "readily identifiable as a firearm" is also unclear.

Mr. Hughes' proposed legislation -- H.R. 2845 -- defines plastic firearms as "any firearm in which any frame, receiver, barrel, slide and cylinder are entirely made of plastic, ceramics, or polymers...". The proposed legislation could be circumvented by merely fabricating one of the parts, the barrel for example, of metal.

That is a loophole that could negate the intent of the law. This same problem would apply in the case of importation. In addition, H.R. 2845, calls for an advisory panel composed of "individuals appointed by the Secretary of Treasury, from law enforcement, firearms manufacturers, and private organizations concerned about firearms issues; and a representative from the Federal Aviation Administration."

The focus, here again, is on firearms technology and manufacturing, instead of on upgrading security systems. We do not believe that such a panel could come to any meaningful conclusions. This proposed legislation, also does not define "readily detectable" and "readily identifiable."

In any criminal statute, the public must be put on notice as to what constitutes a crime. Vagueness could open the legislation to a challenge on constitutional grounds.

Perhaps there are miniumum levels of metal that a metal detector will find that can be quantified and used as a standard, with little or no impact on the existing commerce in firearms. However, this standard would not affect foreign-made firearms not intended for import, or those individuals who would operate outside of the law. The answer seems again to lie in improved security and technology operations. It is highly probable that if we take the needed steps to improve those disciplines, additional and perhaps, unnecessary controls on firearms materials would not be required.

I will be happy to answer your questions.

Senator METZENBAUM. Mr. Salazar.

STATEMENT OF RAYMOND SALAZAR

Mr. SALAZAR. Thank you, Mr. Chairman. I welcome the opportunity to appear before the Subcommittee today to provide the views of the Federal Aviation Administration concerning weapons detectability.

We appreciate the interest of the subcommittee in looking at ways in which to foster improvements in the air transportation security system. S. 465 represents an effort to respond to the potential threat of firearms being developed which are not reasonably susceptible to detection by existing technology in use at our nation's airports.

We share the concern of the members of this subcommittee that a successful effort to produce a firearm which is undetectable by current methods would introduce an uncertainty and an additional element of risk into our air transportation system.

We believe that any approach concerning firearms detectability should place primary regulatory authority in the Bureau of Alcohol, Tobacco and Firearms for promulgating standards, as is currently the case, and that the exercise of authority in this area should be conditioned to rely on the expertise of the FAA Administrator with respect to the capability and necessary effectiveness level of airport screening systems.

It is important to recognize, however, that we are aware of no current non-metal firearm which is not reasonably detectable by present technology and methods in use at our airports today.

Certainly, that does not mean that we can be complacent. We are actively pursuing technology within the FAA that is intended to improve the state of the art in the detection of weapons. Our primary effort has been on explosives detection, but we are now engaged in a program to improve firearms detection as well.

This research must continue, since even if laws were on the books prohibiting non-detectable firearms in the United States, the possibility would still remain that a terrorist or criminal could obtain access to such technology once it exists elsewhere in the world.

Consequently, improved methods of screening, as well as improved technology, must continue to be the first line of defense to combatting the threat of hijacking or terrorist activity in our air transportation system as a result of future technological advancements in weaponry.

There is, however, no one simple solution to what is a complex problem that continues to evolve as terrorists track the advancement of technology and employ more sophisticated methods.

It is important that our research and development activities be pursued with a full appreciation of the possibility that firearms technology could at some point threaten to outstrip today's detection capabilities.

I would note that in conducting such research we have maintained a continuing liaison with the Bureau of Alcohol, Tobacco and Firearms. At this time, the research we have initiated involves the feasibility of new detection concepts and technology to detect non-metallic weapons and explosive devices in carry-on luggage and on passengers.

I would add that we have also undertaken a program to upgrade the performance of current concourse detection systems. Several approaches, including x-ray, infrared and acoustics, show some promise of being able to respond to the threat of non-metallic weapons.

Other approaches, particularly chemiluminescence and ion mobility, are anticipated to prove effective in detecting plastic explosives and perhaps gunpowder.

In 1986, we issued a multi-phase solicitation for new detection concepts for non-metallic weapons. Eleven proposals were received and evaluated. The two successful bidders proposed infrared techniques, one active and one passive, for phase 1 feasibility studies of detecting concealed plastics and composite weapons on passengers.

Both of these techniques rely on sensing the different temperatures emitted by different objects. One approach involves the use of an imaging radiometer with a television display; the other will be linked to an automatic signal processor and pattern recognition software.

In one study, the feasibility of using active and passive millimeter wave length systems alone and in combination will be investigated. This system will also address the possible use of acoustic waves for the detection of concealed plastic weapons. The acoustic approach would rely on the differences in acoustic wave reflection from rigid and non-rigid bodies.

A decision will be forth coming this fall as to whether to proceed to phase 2 of the existing contracts I mentioned earlier. This fiscal year, we have issued solicitations for additional studies concerning new technology for detection of non-metallic weapons and for threat surveys concerning ammunition, handguns and weapons, including low metallic grenades and incendiary devices.

In short, we are closely looking at this issue and are hopeful of finding workable solutions. But as in any research project, much more remains to be done and we are committed to taking those necessary actions.

In closing, Mr. Chairman, I would again like to acknowledge my appreciation for having the opportunity to appear today. I believe it is vitally important that we not only deal with the security problems of today, but that we continually look ahead to the future. It is only with adequate foresight, planning and commitment that we will be able to assure the continued safety of the traveling public in our air transportation system.

We welcome the interest of this subcommittee in helping us to attain that necessary objective and assure you of our commitment to working both with the ATF and the Congress to make sure that our Nation's response to terrorist threats is both fully responsive to today's weapons and the potential problem of future undetectable firearms.

The high level of security of the United States air transportation system has long been a model in the world community and we must continue to implement those measures necessary to protect our citizens traveling in this nation's air transportation system.

That completes my prepared statement, Mr. Chairman. I would be pleased to respond to any questions you may have about weapons detectability to the extent that the discussion does not compromise security programs.

Senator METZENBAUM. Thank you very much, Mr. Salazar. You mentioned the FAA is actively exploring methods of detecting non-metallic weapons. When would you expect to have the capability of detecting non-metallic weapons carried on the person?

Mr. SALAZAR. Presently, sir, we are into a phase 1, which is a proof of concept phase, at our technical center in New Jersey. This will determine, number one, if it, in fact, is feasible to do so and if it is, within a year's period of time a determination will be made to go out of the laboratory and perhaps into some field testing, and that should occur within another year. So we are basically looking at 2 years, sir.

Senator METZENBAUM. That would be 2 years before you could get to the point of starting to talk about production?

Mr. SALAZAR. No, sir. I think after the proof of concept, we could begin exploring production. But, again, we would want to take a system out of the lab and put it into actual testing to see what those capabilities are.

Senator METZENBAUM. Mr. Salazar, you are an expert in this area. Give me your best estimate as to when you think there will actually be produced material that can be used in the detection equipment at airports or at other places that will detect plastic guns.

Mr. SALAZAR. Well, I have a high confidence in the system that presently exists, sir, but if you are asking about all plastic weapons——

Senator METZENBAUM. Yes, I am talking about all plastic, all plastic.

Mr. SALAZAR. Sir, I would have to hedge my answer only to look at the current research and development to see where the proof of concept is. We are exploring a variety of methods, sir, and challenging technology and academia every day to come up with new solutions.

Senator METZENBAUM. But it might be as long as 10 years or more?

Mr. SALAZAR. At the far end perhaps, sir. I would certainly hope not.

Senator METZENBAUM. And what would be the optimum? Based upon your own present progress, what is the most optimistic time period that you might talk about?

Mr. SALAZAR. Something less than 2 years, sir.

Senator METZENBAUM. Less than 2 years?

Mr. SALAZAR. Yes, sir.

Senator METZENBAUM. Well, let me ask you this question, then. Let us assume that maybe you are right and maybe you are wrong about whether it will take 2 years or up to 10 years.

We know that the Office of Technology Assessment has said, while we are not aware of any all-plastic and ceramic handguns on the market today, one Florida manufacturer claims to be within 2 years of producing a .22 caliber plastic gun with only some small metallic springs.

If the new plastic gun shows up and the detector is not in place, will that provide a serious risk for the airlines and the aviation travelers?

Mr. **SALAZAR**. It well could, sir. I would certainly agree. Let me say also in terms of technology that is on the drawing board, the vapor detection technology that we are exploring that we hope to have actually in field tests by the summer of next year has the potential of being able to find these particular weapons.

I must admit it focuses primarily on the gunpowder used in bullets, but it is also a potential evolving technology and it may be available sooner.

Senator **METZENBAUM**. At this moment, there is no credible technological solution to the problem of plastic handguns going through detectors, is there?

Mr. **SALAZAR**. That is correct, sir.

Senator **METZENBAUM**. Therefore, would it not be the better sense of caution to ban the production of plastic guns until you have in place the technologically able equipment to detect those guns? Otherwise, do we not run the risk of loss of many lives?

Mr. **SALAZAR**. It would certainly make sense, sir, legislation that would reduce even by one something that would assist in some criminal act. However, the legislation that is proposed would not always apply to those people that certainly would not be willing to comply with the legislation. So we have to look at the issue of research and development as well.

Senator **METZENBAUM**. Why would not the legislation work?

Mr. **SALAZAR**. Well, sir, I am thinking of other countries that may begin a manufacture of this kind of device and a criminal or terrorist that might obtain it and be able to smuggle it into systems.

Senator **METZENBAUM**. But absent it coming in from another country, it would be a major step forward as far as such guns being available in the American marketplace, would it not?

Mr. **SALAZAR**. That is correct, sir.

Senator **METZENBAUM**. And it would make anybody who smuggled in such a gun or brought it in anyway guilty of a crime immediately by having possession of such a gun, would it not?

Mr. **SALAZAR**. Yes, that is correct, sir, although there is legislation now about possession of weapons as well.

Senator **METZENBAUM**. About what?

Mr. **SALAZAR**. Possession of weapons and attempting to carry weapons aboard aircraft.

Senator **METZENBAUM**. But I am just talking about having the weapon, owning the weapon.

Mr. **SALAZAR**. I understand.

Senator **METZENBAUM**. Today, if you own a plastic gun you are not violating any law. Under our legislation, if you manufactured it, imported it, sold it, possessed it, or transferred it, received it, shipped it, or delivered it, you would be violating the law.

Does it not make sense that we do just that if we are to provide that ounce of prevention?

Mr. **SALAZAR**. Yes, sir.

Senator METZENBAUM. Thank you very much, Mr. Salazar, and thank you very much, Mr. Hartnett and Mr. Garmon. We appreciate your testimony.

Our next panel consists of Hubert Williams, president of the Police Foundation, on behalf of the Law Enforcement Steering Committee; Mr. Richard F. Lally, assistant vice president of Security of the Air Transport Association; and Captain H.L. Bradley, chairman of the National Flight Security Committee of the Air Line Pilots Association. We are very happy to welcome all of you gentlemen.

Mr. Williams, we are very happy to welcome you, and let me say how pleased and proud I am that the Law Enforcement Steering Committee as a group has been so forthcoming and supportive of this bill.

I do not think there is any secret about it that without the total support that we have received from the law enforcement community, this piece of legislation would be moving, and I think hopefully be passed during this session of the Congress, and we are very grateful to you.

We are happy to welcome you, as well as you, Mr. Lally and Mr. Bradley. Mr. Williams, why do you not please proceed?

STATEMENTS OF A PANEL CONSISTING OF HUBERT WILLIAMS, PRESIDENT, POLICE FOUNDATION, ON BEHALF OF THE LAW ENFORCEMENT STEERING COMMITTEE; RICHARD F. LALLY, ASSISTANT VICE PRESIDENT OF SECURITY, AIR TRANSPORT ASSOCIATION; AND H.L. BRADLEY, CHAIRMAN, NATIONAL FLIGHT SECURITY COMMITTEE, AIR LINE PILOTS ASSOCIATION

Mr. WILLIAMS. We would like to thank you, Senator, for the commitment that you have made and the legislation you have sponsored to improve public safety. We remember last year——

Senator METZENBAUM. A little louder, please.

Mr. WILLIAMS. We remember last year the difficult battle over McClure-Volkmer and some of its provisions which would have substantially eroded the ability of law enforcement officers to protect themselves and the public. Your efforts contributed significantly to getting good amendments to that legislation to reduce the impact that it would have had, the detrimental impact that it would have had.

Now, again, we see you at the forefront with the plastic gun legislation and terrorist problem that we are now confronting in America and other countries abroad. So we are deeply grateful for that.

I would like to start out, Mr. Chairman. I am Hubert Williams. I represent the Law Enforcement Steering Committee, a coalition of the nation's major professional law enforcement organizations which includes both management and labor, chiefs and line officers.

The committee represents approximately 500,000 law enforcement officers and is dedicated to promoting the Nation's welfare and safety. The organizations making up the Law Enforcement Steering Committee are the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the Major City Chiefs Association, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Sheriffs Association, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, of which I am the president, and the Police Management Association.

On behalf of our entire membership, we are grateful to you, Senator Metzenbaum, for providing us the opportunity to present our views on the need for legislation regulating firearms which are not detectable by conventional x-ray or security devices.

The issue of non-detectable firearms is one of great importance to the law enforcement community. Several months ago, we wrote to Attorney General Meese stating that "the law enforcement community strongly supports the enactment of legislation to prevent the proliferation of dangerous new undetectable weapons."

We assured the Attorney General of our willingness to work with the Department of Justice and with the Congress in developing language that will protect citizens without infringing on the rights of sportsmen.

Following our letter, we met with Francis A. Keating, II, Assistant Secretary for Enforcement and Operations of the Department of the Treasury. We reiterated our desire to see legislation of this kind enacted.

We also corresponded with the Treasury Secretary, James Baker, expressing the same concern that legislation of this nature be passed. Last month, several of our organization members testified before the House Judiciary Subcommittee on Crime on this issue.

The technology now exists to produce weapons made of non-detectable materials. It is only a matter of time before market conditions make such production attractive. The time to address this problem is now before these weapons are available on the market.

Our airline industry is particularly at risk because security systems cannot detect these weapons unless they are set at impractically sensitive levels. The nation's courtrooms, which have similar security systems, are vulnerable. Right here in the Capitol where thousands of tourists visit each day, the same danger exists.

Weapons that cannot be identified using standard equipment must be banned until adequate technology is developed, tested and universally installed. The legislation now under consideration by this subcommittee would reduce unnecessary risk to the public while we race to upgrade our detection capabilities.

In this area, we would like to commend the FAA for its tireless work. That agency has demonstrated a deep appreciation for the urgency of rapid improvement in security technology and has undertaken the necessary research. We are confident that it will succeed in this effort in time.

Until that time, however, we must protect the public from the unrestricted application of new firearms technology. S. 465 would provide that protection. This bill outlaws the manufacture, importation, possession, and sale of a certain class of firearms composed of non-detectable elements.

We feel that S. 465 contains provisions that outline clearly which firearms would be prohibited. This is a highly commendable approach and we wholeheartedly support it.

As a member of the law enforcement community, we want to make absolutely clear that the issue here is not gun control. The issue here is the safety of the American public which is jeopardized by domestic and international terrorism.

The question is whether or not Congress will act to prevent its spread.

We are not interested in trampling on the rights of American sportsmen. We are interested in protecting the lives of American citizens. While we in law enforcement are concerned with protecting our citizens from the danger that these undetectable weapons represent, we also recognize the need to protect the rights of legitimate gun owners.

Mr. Chairman, we again congratulate the subcommittee for addressing this important issue. We pledge our cooperation in developing this legislation, and we thank the subcommittee for allowing us this opportunity to testify in its support.

Senator METZENBAUM. Thank you very much, Mr. Williams. You are here on behalf of the Law Enforcement Steering Committee. Has any police organization disagreed with the Committee's position?

Mr. WILLIAMS. There is no major national police organization that disagrees with the committee's position.

Senator METZENBAUM. Are there some minor ones?

Mr. WILLIAMS. There are organizations that have taken a contrary position.

Senator METZENBAUM. And they are very small ones?

Mr. WILLIAMS. They are not representing the major law enforcement constituency. They are fragmented, very small, and located in different areas of the country.

Senator METZENBAUM. If you had to give me comparative numbers, for how many law enforcement officials would you say you are speaking and how many are on the other side of the issue?

Mr. WILLIAMS. I would say, Senator, that this organization is a coalition that represents every major law enforcement organization, virtually, in the country, from the sheriffs to the State troopers to the line organization, the FOP, to the chiefs of police. Virtually every organization is represented here.

We have found that there is a variety of organizations. Some of them are mere shells. Others are legitimate organizations with very narrow interests, but they represent an extremely small percentage of the police officers and the police chiefs in this country.

Senator METZENBAUM. I think you have said that you are speaking—if I remember correctly, did you say you were speaking on behalf of 500,000 members of the various constituent organizations?

Mr. WILLIAMS. That is true.

Senator METZENBAUM. And what would you guess is the total number at best that could be claimed to be in other police organizations?

Mr. WILLIAMS. I would say that their maximum claim is 17,000, and we doubt that seriously that they have that many people involved in those organizations.

Senator **Metzenbaum**. Thank you.

The National Rifle Association repeatedly claims that members are anti-gun, do not speak for the rank and file, and therefore your support of legislation like S. 465 really does not represent a police position.

Mr. Williams, would you consider yourself an anti-gun kind of person? Would you put yourself into that grouping?

Mr. **Williams**. First of all, we came into existence because the National Rifle Association and other organizations were misrepresenting the police position and police interests on the Hill.

As a result of a number of Senators coming to these different organizations and telling them that the National Rifle Association said they were speaking for law enforcement, these organizations came together as an entity to speak for themselves, to speak out clearly and emphatically on these issues. That is why we have taken an active role on the Hill. We had never before done that as a collective organization. We had always spoke out individually where individual organizations' interests were represented.

But I do not know any other organization in America that has such a comprehensive constituency of the makeup of American policing and that has spoken with such a degree of unity on the critical issues facing public safety in this country.

The National Rifle Association, when they say that we do not represent police officers, they are saying that the leadership of these organizations that were elected by the constituency base are speaking for themselves.

They have constantly been reelected and their mandate on the part of their membership is to come here and testify on these issues before this Congress.

Senator **Metzenbaum**. Would you repeat again the organizations for which you do speak?

Mr. **Williams**. I will be very happy to. The Law Enforcement Steering Committee is made up of the following organizations: Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the Major City Chiefs, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Sheriffs Association, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, and the Police Management Association.

Senator **Metzenbaum**. Thank you very much, Mr. Williams.

Mr. **Williams**. Thank you, Senator.

Senator **Metzenbaum**. Mr. Lally, we are happy to hear from you. You are assistant vice president for security for the Air Transport Association.

STATEMENT OF RICHARD LALLY

Mr. **Lally**. Thank you, Mr. Chairman. The Air Transport Association represents most of the major scheduled U.S. airlines. On behalf of its members, ATA is pleased to endorse the objectives of S. 465.

The U.S. airline security system has successfully met the test of such unusual items as flammable liquids, flare guns, and Saturday night specials that contain less metal and are more difficult to detect than recently publicized "plastic" firearms.

But as the technology evolves, less detectable weapons appear to be a certainty. Therefore, we believe that legislation to ban the manufacture and importation of firearms that modern screening techniques cannot readily detect is a prudent measure.

In our view, enactment of such legislation will be in the best interests of the American public, including the 500 million air travelers, especially those who fly frequently. This does not mean to us that the advantages associated with plastic or ceramic manufacture would necessarily be lost or ignored. Manufacturers could seed the materials with metal fragments that, although invisible to exterior view, could show a distinctive signal that could aid greatly the detection process.

The record of the U.S. airline screening system over the past 14 years is unmatched in terms of both its magnitude and its effectiveness. Some statistics: almost 8 billion persons screened; over 9 billion carry-on items inspected; more than 36,000 firearms detected; almost 16,000 related arrests; and at least 117 hijackings or related crimes prevented.

The FAA and the industry are constantly striving to make this excellent record even better. What we do not want to do is make the task more difficult than it already is. Enactment of S. 465 will help assure that firearms technology does not outpace our detection capabilities.

We have two suggestions with respect to S. 465. We suggest that the specific detection criteria be deleted from the legislation and, instead, that determinations be based upon detectability by systems currently in place at U.S. airports. This would avoid any statutory limit to detection capabilities and recognize the likelihood of advances in detection technology.

We suggest also that the language dealing with the detectability determinations to be made by the Secretary of the Treasury be expanded to require consultation with the Administrator of the Federal Aviation Administration. We believe such consultation essential because detection systems in place at U.S. airports are operated by the airlines pursuant to FAA security standards and procedures. Accordingly, we think that the airlines and the FAA can provide the best information and judgments to guide the Secretary in making the determinations.

Thank you, Mr. Chairman. I would be happy to try to answer any questions you may have.

Senator METZENBAUM. Thank you, Mr. Lally. As you know, I think, from having talked with my staff the question of whether the standards are set out in the bill or whether they are set administratively is a question that really does not concern this Senator.

Rather, I am concerned about what the law enforcement or those charged with more expertise than I say about it. It is my understanding that the ATF has some problems about going the way you indicated, and so I would suggest to you that you and my staff and the ATF and the FAA consult. We want you on board and as far as

I am concerned, I am willing to do it any way that it is feasible in order to obtain the objective.

So I would be happy to work with you and we appreciate your testimony.

Mr. **Lally**. We would look forward to it, Mr. Chairman. Thank you.

Senator **Metzenbaum**. Thank you very much.

[The prepared statement of Mr. Lally follows:]

TESTIMONY OF

RICHARD F. LALLY

ASSISTANT VICE PRESIDENT - SECURITY
THE AIR TRANSPORT ASSOCIATION

SUMMARY

- The Air Transport Association represents most of the major scheduled U.S. airlines. On behalf of its members, ATA is pleased to endorse the objectives of S.465.
- The U.S. airline security screening system has successfully met the test of such unusual items as flammable liquids, flare guns and Saturday night specials -- that contain less metal and are more difficult to detect than recently publicized "plastic" firearms. But as the technology evolves, less detectable weapons appear to be a certainty. Therefore, we believe that legislation to ban the manufacture and importation of firearms that modern screening cannot readily detect is a prudent measure.
- In our view, enactment of such legislation will be in the best interests of the American public including the 500 million air travelers, especially those who fly frequently.
- This does not mean that the advantages associated with plastic or ceramic manufacture would necessarily be lost or ignored. Manufacturers could seed the materials with metal fragments that -- although invisible to exterior view-- could show a distinctive signal that could greatly aid detection.
- The record of the U.S. airlines' screening system over the past 14 years is unmatched in terms of both its magnitude and its effectiveness;
  - almost 8 billion persons screened;
  - over 9 billion carry-on items inspected;
  - more than 36,000 firearms detected;
  - almost 16,000 related arrests;
  - at least 117 hijackings or related crimes prevented.
- FAA and industry are constantly striving to make this excellent record even better. What we do not want to do is make the task more difficult than it already is. Enactment of S.465 will help assure that firearms technology does not outpace our detection capabilities.
- We suggest that specific detection criteria be deleted from the legislation and, instead, that determinations be based on detectability by systems currently in place at U.S. airports. This would avoid any statutory limit to detection capabilities and recognize the likelihood of advances in detection technology.
- We suggest also that the language dealing with the detectability determinations to be made by the Secretary of the Treasury be expanded to require consultation with the Administrator of the Federal Aviation Administration. We believe such consultation essential because detection systems in place at U.S. airports are operated by the airlines pursuant to FAA security standards and procedures. Accordingly, we think that the airlines and the FAA can provide the best information and judgments to guide the Secretary in making the determinations.

My name is Richard F. Lally. I am Assistant Vice President - Security for the Air Transport Association, the trade and service organization of the U.S. scheduled airlines.

The airlines belonging to ATA account for more than 90 percent of the total revenue passenger miles produced by U.S. scheduled air carriers, for more than 95 percent of air freight ton miles and for the transportation of most intercity first class mail. ATA air carriers fly to more than 400 airports in the United States and to more than 70 foreign countries.

I am pleased to appear on behalf of ATA member carriers before this subcommittee to add the views of our industry as you consider legislation that would prohibit the manufacture, importation, sale or possession of firearms that cannot be detected by metal detectors or X-ray systems commonly used at U.S. airports.

I can assure you, Mr. Chairman, that the U.S. airlines have the best passenger screening system in the world. It is at the heart of our program to protect our passengers and crews from crimes against air commerce.

Our screening system has been put to the test -- and put to the test successfully -- by such unusual things as flammable liquids, flare guns and the Saturday night specials that have less metal and are more difficult to detect than recently publicized "plastic" firearms. But as the technology of "plastic" firearms evolves, less detectable weapons appear to be a certainty. Therefore, we believe that legislation to ban the manufacture and importation of firearms that modern screening cannot readily detect is a prudent measure.

This does not mean that the desirable attributes of plastic firearms, e.g. lightweight, less maintenance would be foregone; a firearms manufacturer could include metal fragments, helping detection but still capitalize on the advantages of mostly or all plastic, or ceramic, construction. Although invisible to an exterior view, the metal fragments could show a distinctive signal or message under X-ray -- the word "gun," for example.

Briefly, we endorse the objectives of S.465. In our view, enactment of such legislation will be in the best interests of the American public and the 500 million annual air travelers , especially those who travel frequently.

The record of the U.S. airlines' screening system over the past 14 years is unmatched in terms of both its magnitude and its effectiveness:

- Almost eight billion persons have been screened.
- Over nine billion carry-on items have been inspected.
- More than 38,000 firearms have been detected, leading to almost 16,000 related arrests.
- At least 117 hijackings or related crimes may have been prevented.

The government and industry are constantly striving to make this excellent record even better. What we do not want to do is to make the task more difficult than it already is. Reasonable controls over the availability of firearms that cannot readily be detected by state-of-the-art methods and equipment currently in use will prevent weapons technology from outpacing detection technology. Enactment of S.465 will constitute an important step toward that objective.

We suggest, however, that specific detection criteria, i.e., the Minimum Security Standard Examplar and cabinet X-ray systems as currently defined in the Code of Federal Regulations, be deleted from the legislation. Instead, it is recommended that the Secretary's determinations be based upon judgments that the firearms in question are readily detectable by weapons detection systems currently in place at U.S. airports. This approach would not impose any statutory limit to detection technology and would recognize that detection capabilities will probably advance to include measures in addition to today's metal detector and X-ray technology.

We suggest, also, that the language of the proposed amendments of Sections 922 and 925 of Title 18, United States Code, be expanded to require that the Secretary of the Treasury consult with the Administrator of the Federal Aviation Administration on any determination that firearms are not readily detectable as firearms by the standard security equipment commonly used at airports.

We believe such consultation essential because the weapons detection systems in place at U.S. airports were established pursuant to Federal Aviation regulations and are maintained and operated by the airlines in accordance with FAA security standards and procedures. It seems to us, therefore, that the airlines and the FAA can provide the best information and judgments as to the detectability of firearms to guide the Secretary of the Treasury in making the proposed determinations.

The airline passenger screening process is the cornerstone of the U.S. Civil Aviation Security Program that has served and continues to serve, we think, as the model for the rest of the world. Before focusing on the passenger screening process and weapons detection systems specifically, it is desirable to examine some of the recent experience of U.S. airlines in combatting hijackings and related criminal acts against civil air commerce.

By way of background, from a statistical viewpoint, these have been relatively good times for airline security. In this country, there were only five U.S. airline hijackings during 1984, four in 1985 and three in 1986. The figures for 1985 and 1986 are the lowest annual totals since 1976. So far in 1987 there have been two U.S. airline hijacking attempts. Both were unsuccessful. These figures compare favorably to the peak hijacking years of 1968-1972 when there was a five year total of 173 U.S. airline hijackings or an average of almost 35 each year.

Statistics alone, however, do not present a full picture. Concerns about international terrorism have been heightened considerably since the hijacking of TWA Flight 847 out of Athens on June 14, 1985. That incident -- a hijacking only in its initial hours -- evolved into a 16 day hostage ordeal. Quick on the heels of the June 14 incident came the June 23 explosion of a bomb in a suitcase at Narita Airport and on the same day the suspected -- and now proved -- bomb destruction of an Air India flight off the coast of Ireland with the loss of more than 200 lives. Then on April 2, 1986, there was the explosion aboard the TWA flight going into Athens, the first bomb explosion aboard a U.S. airline flight since 1982. And on September 5, 1986 there was the attempted hijacking of Pan Am Flight 73 at Karachi which resulted in the death of 17 persons and more than 100 injured. Security measures at airports throughout the world remain very tight as a result of those incidents.

In this regard, U.S. airlines are maintaining extraordinary security measures that cover every aspect of their operations, ranging from increased crew member security training to elimination of curbside baggage check-in for international flights and to strengthened controls and scrutiny of all persons and property with access to airline aircraft. The stringency of the security measures in force today is unmatched in U.S. airline history.

As to the U.S. airline passenger screening system specifically, it is important to understand the scope and magnitude of this critical element of the U.S. civil aviation security program.

When screening of all U.S. airline passengers and their carry-on baggage was first proposed back in 1972, there were many in both government and industry who said this couldn't be done.

Such a reaction was understandable, given the millions of people, the baggage and the flights involved and -- for U.S. society -- the unprecedented nature of the personal inspections contemplated. Yet, with one of history's most outstanding examples of public-private sector cooperation, screening and other aspects of the air transport security program have worked remarkably well.

To understand the massive efforts behind successful air transport security, it is helpful to look first at the dimensions of the air transport system that industry and government are keeping secure.

- The nation's airlines transported more than 415 million passengers last year.
- these people moved along with millions of tons of freight and the vast majority of the nation's intercity first class letters.

- Moving this traffic required the service of 5.5 million flights that had to be processed for security, as well as for a host of other reasons.
- These passengers checked some 600 million bags that moved in aircraft luggage compartments.
- They carried on board with them more than 400 million pieces of luggage.
- In total, the airlines screened more than one billion items that people carried aboard. In addition to the luggage, there were all of the briefcases and purses that passengers carry with them.
- These passengers passed through 1,200 screening points maintained by the airlines at 400 U.S. airports. Actually, more than 700 million people were screened -- counting passengers, people who came to see them off and others whose business takes them through the screening points.
- There are about 6,000 screeners at U.S. airports employed by contractors hired by the airlines. There are more than 1,500 law enforcement officers giving police support to screening activity. The compensation of these officers is being paid by the airlines. More than 1,000 X-ray units and 2,500 weapons detectors are in use at the screening points.
- The screening phase of security alone costs the nation's airlines more than $200 million a year.

U.S. history records various instances in which given industries and their customers have been targets of crime, but the response to the security threat against air transportation is marked by a singular characteristic. This characteristic is the extent of responsibility assumed by the airlines in what has been vested traditionally in government as a public safety responsibility. Never before in history has private industry undertaken defenses of the scope, magnitude and duration that the airline industry has undertaken to protect passengers, crews, cargo and aircraft from outside threats.

The U.S. civil aviation program that has evolved over two decades is comprehensive in nature, yet one of shared responsibilities on the part of government, primarily the FAA, airlines, airports and local communities. We believe the government and industry are striving to make the security at our airports even better. What we do not want to do is to make the task more difficult than it already is. In that regard, we urge this subcommittee to enact legislation such as S.465 which will ensure reasonable controls over the availability of firearms that cannot be readily detected by current security systems.

On behalf of the nation's airlines, I thank you for the opportunity to appear here this morning. I will now answer any questions you may have.

Senator **Metzenbaum**. Captain Bradley, chairman of the National Flight Security Committee of the Air Line Pilots Association. It is my understanding, Captain, that you have actually flown in from Berlin just so that you might testify here this morning?

Mr. **Bradley**. Yes, sir, that is correct.

Senator **Metzenbaum**. We are very grateful to you for doing that and we appreciate your testimony and are very happy to hear from you, Captain.

Mr. **Bradley**. Yes, sir. Sir, prior to making my prepared statement, I would like to tell you how much I personally——

Senator **Metzenbaum**. A little bit louder.

Mr. **Bradley**. Okay. Is this a little better? It sounds better here, okay.

Prior to making my prepared statement, I would like to make a personal statement in the fact that I am very, very appreciative of the interest you have shown in this area, and we feel that the interest that you show and that our government shows will go a long way in making our flights a lot safer, and I thank you.

Senator **Metzenbaum**. Thank you very much.

STATEMENT OF H.L. BRADLEY

Mr. **Bradley**. Mr. Chairman, I am Captain H.L. Bradley of the Air Line Pilots Association, ALPA, which represents 40,000 pilots in 43 airlines. I am chairman of the ALPA National Flight Security Committee and I am accompanied by Mr. Bill Phaneuf and Mr. Jerry Wright of our Engineering and Air Safety Department.

I am grateful for the opportunity to appear before you today and I would like to compliment you and all the members of the subcommittee for your continued interest in airport and airline security and how we can best combat the threat that international terrorism poses for air travelers.

Despite all the efforts made by the Congress and the administration in response to the terrorist attacks in the past few years, a significant terrorist network continues to exist, as well as the ever-present potential for isolated individual aberrant behavior.

The aviation community remains extremely concerned about the hijacking and sabotage of aircraft. Airlines and their passengers continue to be attractive targets for a number of reasons, including the fact that aircraft sabotage, hijackings, and attacks on airport terminals are proven worldwide attention getters.

Although we wish that past attacks on airlines and their passengers had never taken place, some benefits did result. We believe that the improvements in security that have recently been made would otherwise have taken years to accomplish.

The FAA, at Congress' behest, has made substantial emergency changes to federal aviation regulation part 108 which deals with airplane operator security. These measures deal with the use of Federal air marshals, expanded flight security coordination and crew training, and establishment of more stringent standards for examining passenger baggage.

However, legislation needs to be passed immediately to limit the manufacture and importation of weapons which are difficult, if not impossible, for security screening personnel to detect. Now is not the time to allow the introduction of a new weapon into the arsenal of international terrorism.

We therefore are very supportive of S. 465 to amend chapter 44, title 18, United States Code to prohibit the manufacture, importation, sale or possession of firearms not detectable by metal detection and x-ray systems commonly used in airports in the United States.

We need to make the job of the screening people equal to the task of detecting weapons, not make it more difficult. This bill will go a long way toward achieving that task. The Air Line Pilots Association has interest in this legislation from a safety point of view. We are concerned about any weapon which can easily go undetected through our security system as it exists on any given day.

We have confidence that technological developments are progressing quite well. However, we remain concerned that full implementation of new equipment is not yet commensurate with the threat for some weapons and materials. It is important that we keep well ahead of those who would use technological developments for purposes of extortion, murder, or destruction of property.

It is possible, even likely, that the evolution of firearms made of materials not reasonably detectable by our present system will ultimately be forced into obsolescence by the advance of our system as it grows.

Until the time comes when the equipment used in our security systems and the training of those thousands of security personnel around the world in the use of those systems is accomplished, we can see no other alternative from a detection standpoint than to limit the availability of any type of weapon which easily escapes detection.

In a more general sense, improved cooperation among agencies and among nations is a must. Only through cooperation can we ever solve the problem of international terrorism. As long as sanctuaries exist and support of terrorist activities continue, there can be no respite for civilized nations.

The Air Line Pilots Association stands ready to work with you, Mr. Chairman, the entire Congress and the administration in any effort to thwart those who would threaten the safety of our transportation system.

We thank you for your consideration and the opportunity to speak on this vital issue.

Senator **Metzenbaum**. Thank you very much, Captain Bradley. Captain Bradley, would you feel comfortable flying out of American airports if firearms were readily available that were not detectable by airport security equipment?

Mr. **Bradley**. No, sir.

Senator **Metzenbaum**. Opponents of this legislation argue that this legislation is premature because plastic weapons are not yet available. Do you agree?

Mr. **Bradley**. I do not know of plastic weapons that are available today that could easily get on our aircraft. However, I do not have a crystal ball and I do not know how soon the technological developments toward plastic weapons would outstrip our present capabilities.

Senator **Metzenbaum**. Does European security differ from American security at airports?

Mr. **Bradley**. Yes, sir.

Senator **Metzenbaum**. What do they do?

Mr. **Bradley**. From airport to airport, it changes; from country to country, it changes. Within the last year, I have flown into many of the East Bloc countries, most of the European airports, and many of the U.S. airports. Each country has its own way of providing security. Some are more stringent than others.

Senator **Metzenbaum**. Some use body searches?

Mr. **Bradley**. Yes, sir.

Senator **Metzenbaum**. Thank you very much, Captain Bradley, Mr. Lally, and Mr. Williams.

The subcommittee will now take a 5-minute recess.

[Recess.]

Senator **Metzenbaum**. I want to clarify the record on a matter, if we can start off. We thought it important that those who were opposed to this legislation be given an equal opportunity to be heard. We had three people from the government, three people who support the legislation, three people against it.

In order to make that determination as to whom those persons should be, we discussed the matter with Senator Hatch's staff and the choice of witnesses—Mr. James Jay Baker of the National Rifle Association; Stephen Halbrook, Esquire, Fairfax, VA; and Emanuel Kapelsohn, president of the Peregrine Corp.—were the names suggested to us.

The Chair feels quite put out that it has just been brought to my attention a press release that the Gun Owners of America put out saying that we had chosen the witnesses and precluded them from testifying.

Now, it is true that in every hearing there is a limited number of witnesses that you can hear from, and we thought it was appropriate that an opponent of the legislation make the choice. Accordingly, Senator Hatch was the particular person to make that choice.

So I would say to the Gun Owners of America that I think your complaint should be at the doorstep of my good friend and colleague, and I do not fault him at all. You always have to choose some and have to turn down others, but it was not we who decided that the three gentlemen from whom we are about to hear were the ones that we should be hearing from.

I might say to you that it has just been pointed to me that Senator Specter is actually the ranking member of this subcommittee, but it was my understanding that he is neither an opponent nor an proponent of this legislation and we knew that Senator Hatch was, and so we turned to Senator Hatch.

Senator **Specter**. I will confirm that I was not consulted and raised no objection to that.

Senator **Metzenbaum**. We are happy to hear from James Jay Baker of the National Rifle Association.

Mr. **Baker**. Mr. Chairman, if you would not mind, is it okay with you if Mr. Kapelsohn went first? He has got to leave shortly after the hearing.

Senator **Metzenbaum**. Absolutely. We are happy to have you, Mr. Kapelsohn. Each of you knows our 5-minute rule.

STATEMENTS OF A PANEL CONSISTING OF EMANUEL KAPELSOHN, PRESIDENT, PEREGRINE CORP.; JAMES JAY BAKER, DIRECTOR, GOVERNMENTAL AFFAIRS DIVISION, NATIONAL RIFLE ASSOCIATION; AND STEPHEN P. HALBROOK, FAIRFAX, VA

Mr. **Kapelsohn**. So you will understand my credentials in speaking today, sir, I have degrees from Yale University and Harvard Law School. I practiced law for 5 years, but I am now president of a New Jersey corporation concerned with the training of police and security personnel and the consulting with regard to training procedures and systems.

I am on two national-level boards concerned with police firearms training. I am technical editor of a magazine called "The Police Marksman," and I am certified as a police firearms instructor by the FBI, the New Jersey Police Training Commission, and numerous other boards and agencies.

Senator **Metzenbaum**. I did not get what you said. What is Peregrine Corp.?

Mr. **Kapelsohn**. My corporation is involved in the training of police and security personnel in firearms and other fields, and we do so all over the United States. I have taught at many police academies and colleges and police ranges and for police departments, and also for private security companies who do screening for weapons and other metallic objects.

Now, Senator Metzenbaum, I have faith in your good faith. You said two things at the beginning of your presentation. You said that your legislation will not affect any sporting weapon currently in possession and manufacture in this country, and that all of these weapons on the table have enough metal in them to be detected. I believe, sir, that you are mistaken.

I am the person who asked ATF to bring these weapons here today to permit me to demonstrate, and if I may, I will do so, sir. I am now picking up two weapons from the table. One is a Smith and Wesson Airweight Bodyguard, a type of weapon commonly carried by police officers, undercover police officers and off-duty police officers and detectives all over the United States. The other is a .25 caliber semi-automatic pistol.

Both of these guns are produced by American manufacturers. There are hundreds of thousands of guns of these general types, if not of these specific models, in ownership in this country, and there have been for decades.

I am going to step through this operating metal detector. First, I will put the Smith and Wesson Bodyguard in my waistband, and I believe this will ring when I walk through. Now, if terrorists are smart enough to smuggle weapons into this country and get them on airplanes, I think they are smart enough to put them in their socks, so let me try that, sir.

Well, that was interesting. Now, let me do it with the .25 automatic. First, I will put it——

Senator **Metzenbaum**. Wait a minute.

Mr. **Kapelsohn**. Yes, sir. I do not know what made it ring just now.

Senator **Metzenbaum**. Maybe it was a delayed response. [Laughter.]

Mr. **Kapelsohn**. It is set to go through this way. First, I will put the .25 automatic——

Senator **Metzenbaum**. I do not think that is a very good piece of equipment. The first time you went through, it rang. The second time, it did not.

Mr. **Kapelsohn**. Yes, that is right, and that is my point.

First, I will put the .25 automatic in my waistband. It did not ring at all that time. Let us try it again going this way. There, it did ring. Now, let us say a terrorist puts this in his sock. By the way, terrorists use much more sophisticated methods than carrying firearms in their socks, but let us try it this way.

Now, I would like to show the Senator and those present what I brought down here today with me from New Jersey through Newark Airport, National Airport, and into this building through the screening at the entrance.

First of all, I carried on the airplane this knife with which I could easily hijack an aircraft by taking a stewardess or someone else hostage and putting it to their throat. I doubt we would want the pilot to disobey my command and have that person's throat cut. That is interesting. Of course, a martial artist would not even need a pen knife to put that person's life in danger.

This is a 1¼-pound block of steel, as much steel and as large in size as the slide or upper mechanism of any semi-automatic pistol, including our own military pistol and the currently adopted one, those in use by police departments all over the country. I took this through the screening at Newark Airport and brought it through the screening and into this building.

If a pistol is placed upright in a briefcase and the briefcase is then run through the conveyor belt, what an overhead x-ray sees is this outline of the top of the slide. So for all those security officers knew, this could have been a pistol that I was smuggling into the airport, and it was not detected in either location.

Senator, I know my time is up, but I will ask this, sir. Approximately half of the previous witnesses ran over their time and were allowed to continue speaking, and I would ask the subcommittee's indulgence for another minute or two.

Senator **Metzenbaum**. No problem.

Mr. **Kapelsohn**. Okay, thank you.

Senator **Metzenbaum**. Go ahead, finish up.

Mr. **Kapelsohn**. The point I am making is this: While the Secret Service gives us the statistics about guns they detect at the White House and elsewhere in the field, I do not believe they would say that they think they can protect the White House or Presidents or candidates at any locations by simply prohibiting a weapon.

What we need to do is enforce security procedures, including the screening of people hired for security positions at airports and public buildings, their training, the equipment and procedures used.

Obviously, many firearms in current ownership today, including ownership by probably hundreds of thousands of the members of the police organizations to which Mr. Williams referred—he said he had 500,000 police officers, line officers, represented by his organizations within the steering committee—my guess is approximately 450,000 of those 500,000 own off-duty or backup firearms which would also pass through this metal detector, depending on the way in which it is done.

By the way, while I do not want to do this for the press or even discuss it, there are much more sophisticated ways of passing that metal weapon through this device than just putting it in my sock.

What we have here is a piece of legislation which I believe is well intentioned, sir, but it requires that the firearm to be prohibited either be not as detectable as the facsimile firearm and not identifiable as a firearm, and I am quoting, "or readily detectable by cabinet x-ray systems in use."

The problem is just that. Cabinet x-ray systems and magnetometers do not identify or detect things as firearms. The operators of those devices have to identify things as firearms, and our problems are with the operators of those devices.

Airlines hijackers have not typically used small, underpowered, highly concealable weapons of this sort. They have used full-sized, powerful weapons, hand grenades, explosives, sub-machine guns which have been brought in in circumvention of the security procedures.

So I will end there, but while you said that this is an opportunity to attack and thwart terrorism, I suggest it is a misguided attempt to do so and it will be a placebo, not an effective measure. I oppose it, sir.

Senator SPECTER. Before you go, Mr. Kapelsohn, if I may ask a question, would you have any suggestion as to how to solve the problem? You have illustrated circumstances which defy detection. What would you suggest in a positive way, if anything?

Mr. KAPELSOHN. Mr. Specter, I came down here on short notice with about 3½ hours' sleep. I suggest that I and others in the security field would have many suggestions of how to solve this problem, but I do not think I can give them off the top of my head in a useful form.

I would be pleased to work with this committee, if possible, and suggest others who would work with it to devise usable and effective standards and measures and procedures that would safeguard us in our airports and public places.

Senator SPECTER. Well, I am sure the committee would join me in being interested in what you have to say.

Mr. KAPELSOHN. Fine. Well, then, the committee knows how to contact me.

Senator SPECTER. Well, consider yourself contacted and let us know.

Mr. KAPELSOHN. Fine. [Laughter.]

Senator SPECTER. I would be very interested to have a letter from you or a paper from you, and I am sure Senator Metzenbaum would as well, as well as the other members on this subcommittee and the full committee.

Mr. KAPELSOHN. Yes, sir.

Senator SPECTER. Okay, thank you.

Senator METZENBAUM. Mr. Kapelsohn, I share with Senator Specter the observation that it was a very effective demonstration. Incidentally, I am going to have you do it over again because I am told that the sensitivity was turned way down and we are going to have you do it over again and see if it will pick it up the second time. I do not know that it will. I do not manufacture those pieces of equipment. I thought they would do a better job than they do.

But having said that, I have to point out that I do not think that you make your point. All you are saying is that this equipment is not now adequate. That does not make a case for making it possible for plastic guns to go through. No matter how good the equipment is, the plastic guns cannot pick it up.

This equipment, if it did not work, it should work, and if it does not work well enough, there are ways to change this equipment to pick up metal detection. There is no way now known to pick up plastic detection.

So if you have any ideas about how to improve upon the equipment, then I would suggest that Peregrine ought to go into the manufacture of the equipment or, absent that, advise this committee so that we can take the necessary steps to see to it that the equipment is sensitive enough to pick up that block of steel that you had in your bag, to pick up a gun that is upright, to pick up the two guns that you had in your socks. We would be happy to hear from you.

Mr. **Kapelsohn**. Well, Senator, I can let you hear some of what I have to say right now in response. It is not the case that this equipment is not adequate to detect any firearm on this table or my knife or the block of steel. It will detect them.

If we now turn it up, as that gentleman has done, way up—I was told when I came in that it was already set to FAA specifications, but if we now turn it way up, my guess is you will see that it will detect all of these things, but that is just my point.

Senator **Metzenbaum**. But if it were plastic, it would not.

Mr. **Kapelsohn**. But there is no plastic firearm.

Senator **Metzenbaum**. But if there were plastic firearms, there is no equipment that could detect it. This equipment you have just set could detect metal if it is turned up, and so all we are saying here is—and I have not heard one scintilla of evidence from you as to why we should not have a bill outlawing plastic guns which cannot be detected at all, and that is the only issue before us, Mr. Kapelsohn.

Mr. **Kapelsohn**. But your definition includes hundreds of thousands of existing metallic firearms.

Senator **Metzenbaum**. Mr. Kapelsohn, if you want to work with the BATF—I am no expert on guns; that is your business. I do not know that Senator Specter is an expert on guns, but the BATF is an expert. They would be willing to work with you; they would be willing to talk with you.

We turn to those who have the expertise in government, but we readily accept any additional professionalism that comes from the private sector and we will be glad to have that from you.

Mr. **Kapelsohn**. Senator Metzenbaum, your spleen is not metallic, but it shows up on an x-ray because it is of different density than the other organs around it. The most commonly detected suspect item in passenger carry-on baggage, as I am told, is the plastic toy pistol or water pistol which x-rays readily detect in baggage because of its outline and its different density.

So while I do not assume we have the time to go into every detail of it, the fact is there are systems and procedures. Keep in mind also I have not mentioned anything that is a secret. In other words, if I say stand the gun up in a bag or put it in your sock, I am saying something that every criminal knows already.

But, you see, when we stand the firearm upright in a briefcase and lay that on the conveyor belt and it goes through the x-ray line scanner so that the x-ray looking from above sees only the top of the slide, which could be any rectangle—it could be any rectangular piece of metal, for instance—we have got a very simple solution to that and it is in use in airports all over Europe and the rest of the world, some of which I have been in, and that is simply an x-ray that x-rays from the side at the same time that it x-rays from the top so that it would see the outline from the side, if not from the top. That is a simple solution.

I could go into the residence of any person in this room with a hacksaw blade and emerge 20 minutes later, I guarantee you, with a working firearm which would be significantly more effective than a couple of the ones on the table there.

So it becomes an act of futility to try to keep our airports and public buildings safe by prohibiting the firearms. The terrorist is not impeded by that legislation any more than I would be.

We have got to have procedures and systems and methods that keep those weapons which we cannot control from getting into places that they should not be. As I started off by saying, I believe that this legislation is well intentioned, but it needs to be rewritten in some fashion.

Senator **METZENBAUM**. Mr. Kapelsohn, because I am concerned about some TV display this evening indicating that you can go through a metal detector with a gun in your sock, and because I am told that you cannot if it is turned up, would you be good enough to go through again?

Mr. **KAPELSOHN**. Of course, if I go through again and get through without it ringing, then the TV will not do us a very good service.

Senator **METZENBAUM**. If you go through again without the ringing, then the two Senators sitting up here are going to be sufficiently shocked that we are going to raise some questions with the police department that provided that to us. [Laughter.]

Senator **SPECTER**. Mr. Kapelsohn, aside from having Senator Metzenbaum speak on this, as other issues, did you say there is no such thing as a plastic gun?

Mr. **KAPELSOHN**. To my knowledge, an entirely plastic or ceramic firearm does not exist. The Glock 17 certainly is not one. It has 19 ounces of steel in it, which is more than several of those other guns on the table.

Senator **SPECTER**. So that you are saying there is no such thing as a totally plastic gun?

Mr. **KAPELSOHN**. To my knowledge, there is not, and I work with firearms and review them on a daily basis.

Senator **SPECTER**. All the guns have metal, so that you are saying that——

Mr. **KAPELSOHN**. Substantial amounts, yes, sir.

Senator **Specter**. So that even a gun which is represented to be plastic or have substantial plastic quality would have sufficient metal to be picked up if the equipment is working?

Mr. **Kapelsohn**. Well, I can demonstrate that in a flash if you——

Senator **Specter**. Well, I am not asking for a demonstration; I am just asking for an answer.

Mr. **Kapelsohn**. Yes.

Senator **Specter**. Thank you.

Mr. **Kapelsohn**. They will all be detectable. All of the currently existing firearms of which I am aware are easily detectable by current security devices in use at our airports.

Senator **Metzenbaum**. Senator Specter, that has been the testimony by all of the witnesses today, but there are those who expect it to be produced within a couple of years.

Would you be good enough to go through the——

Mr. **Kapelsohn**. I will try it, sir. Of course, this also has a metal tag on it, but we can take that off. That time, it rang. I believe it can be done without ringing it. I do not know what this is turned up to right now, but the point is in common use at airports people walk through, and as recent publicity showed——

Senator **Metzenbaum**. Eddie, is that turned up higher than FAA standards?

Staff. Yes. We will turn it down, the point being that there is a setting that picked it up, but let us turn it down and try it again.

Mr. **Kapelsohn**. Senator, not to delay you further, but I am sure you want to understand the facts of this matter, these devices can pick up the foil wrapper of a piece of chewing gum. They can pick up a cloth-covered metal button on your clothing.

People in the precious metals business who screen their employees going out of a plant at the end of the day screen them for minute particles of gold that they are carrying so that people cannot amass pounds of gold.

Senator **Specter**. Mr. Kapelsohn, why do we not have it turned in accordance with FAA standards and see what happens?

Senator **Metzenbaum**. Do you know what that is, Ed?

Staff. Not exactly, but let us try to make a best estimate.

Senator **Metzenbaum**. Do you know what the FAA standard is, Mr. Kapelsohn?

Mr. **Kapelsohn**. No, I do not.

Staff. It is actually set by a mass of metal. The problem here is that you are putting this through the most vulnerable range detectable by putting it in your sock. That is why we have to have a higher sensitivity.

Go ahead.

Senator **Metzenbaum**. It did not go off that time.

Mr. **Kapelsohn**. That is my point. It will eventually pick up the paper clip.

Senator **Metzenbaum**. I think, Mr. Kapelsohn, you have made your point that the equipment is not all that it is cracked up to be, and I think perhaps there needs to be some reevaluation by the FAA as well as by the police department of this Capitol building.

Mr. **Kapelsohn**. But, Senator, the equipment is all that it is cracked up to be. It will detect it if he turns it up high enough. It is the procedure that it is not all that it is cracked up to be.

Senator **Metzenbaum**. Thank you very much.

Senator **Specter**. Mr. Kapelsohn, one final question. Did you subject yourself to any penalty if you had been apprehended with the knife?

Mr. **Kapelsohn**. No, sir. That is something that, in my belief, is legal to carry, and I have flown with this knife many hundreds of times because this is not an illegal weapon in any State of which I am aware.

Senator **Specter**. Thank you, Mr. Kapelsohn. Now, Mr. Baker, are you prepared to go forward?

Mr. **Baker**. Yes, sir. Thank you, Mr. Chairman.

Senator **Metzenbaum**. Do you want to walk through?

STATEMENT OF JAMES BAKER

Mr. **Baker**. No. I think we accomplished our purpose.

The National Rifle Association of America appreciates the opportunity to testify in opposition to S. 465. The NRA is unalterably opposed to S. 465 or any similar bill that would outlaw any firearm on the grounds that it may cause terrorist crime.

The bill's sponsors have complained that partial or fully plastic firearms which do not exist today may evade airport security. We have seen right here today, Senator, that there are many conventional firearms that will also evade airport security.

Most astonishingly, rather than improve airport and airline security, your approach would make firearms contraband rather than punish terrorist violence or lax security personnel and procedures.

S. 465 gives the Secretary of the Treasury the discretion to determine which firearms will be produced based on a vague standard of detectability. Criminal statutes must clearly and concisely dictate the conduct that is to be proscribed. The standards in this bill are vague and arbitrary, and S. 465, in our opinion, is constitutionally void for vagueness.

Every new bill on this subject has progressively broadened the purported definition of a terrorist special. It makes no sense that possession of a handgun constructed of partial plastic or less than 8½ ounces of steel, which is fully detectable, costing hundreds of dollars, should be made illegal.

It makes no sense that a handgun made of partial or all plastic that is detectable by security equipment should be made contraband. These purely arbitrary distinctions make no sense to me, and I dare say they make no sense to the millions of law-abiding citizens who own firearms such as the ones on this table.

It is incomprehensible that legislation would be considered that does not even make a pretense of improving airport security or training personnel at our Nation's airports, but instead focuses on banning an object as a panacea in thwarting potential terrorist violence.

As you know, Senator, it was recently documented by the FAA that airport security personnel and equipment failed to detect on a national average 20 percent of the existing firearms and mock explosives in recent tests.

Furthermore, we believe it is naive to believe that international terrorists are going to be affected by banning small arms technology in this country. Experts from both the FAA and the Bureau of Alcohol, Tobacco and Firearms recognize that the approach embodied in S. 465 is not the right one.

S. 465 shows more clearly why Handgun Control and the National Coalition to Ban Handguns are actively lobbying in support of this new agenda. Though introduced as a plastic gun anti-terrorist measure, this bill would also ban the future manufacture, sale, and transfer of thousands of steel handguns that are currently produced and legally owned today.

There is a very real security problem at airports in this country, Mr. Chairman, but it has nothing to do with firearms, be they plastic or steel. The FAA has concluded that the first line of defense must be improved methods of screening as well as improved technology.

More effective efforts include better training and screening at airports, better personnel and better equipment. S. 465 serves to shift the focus away from the real problems and real solutions at airports.

It is increasingly clear that terrorists do not need a plastic gun to breach airport security. All that a potential terrorist needs to do is apply for a job with airport security or any of the many other airline jobs that provide access to restricted areas.

Legislation that seeks to ban handguns is nothing new, Mr. Chairman. It is new, however, to attempt to do so in the name of airport security. Any law passed in this country dictating restrictions on manufacturing methods or materials will not impact on terrorists who will obtain their tools of terror illegally and/or outside of this country.

We believe the issue would be more properly framed if it focused upon the entire airport security system—personnel, equipment and procedures. We oppose legislation aimed at hypothetical threats containing vague definitional standards that, given the current state of airport security, could be used to outlaw almost any firearm.

Mr. Chairman, the National Rifle Association opposes S. 465, and we appreciate the opportunity to testify today and I would ask that my entire comments be included in the record.

Senator **Metzenbaum**. They will be. Mr. Baker, I was listening to you very carefully, and your entire statement will be included in the record, of course, and I think that your offer to work to improve airport security generally—I think that is an offer that the government ought to take up with you and work with you on it. I think that is commendable.

But I was sitting here and saying to myself, why the hell are they opposed to this bill. What difference does it make to them? Nobody says you cannot buy a metal gun. Nobody says you cannot buy a half plastic and half metal gun.

Mr. **Baker**. There is a very simple answer to your question, Senator. It is because your legislation as drafted would ban thousands of the firearms that are currently possessed in this country that happen to weigh less than 8½ ounces in terms of metallic content.

Senator **Metzenbaum**. Our doors are open to you. You are welcome to come in and help us draft the legislation. We are only after the plastic guns. We are not after taking away anybody's right to own a gun. They can own 1 gun, 6 guns, 26 guns.

Mr. **Baker**. Senator, I would be happy to work with you. I do not, quite frankly, see attempting to ban something that does not exist. I do not think that under federal law one has to have a standard. If you are going to proscribe something, it has to be clear what is proscribed, especially if you are going to provide criminal penalties for the breach of that law.

Unless you can come up with a standard that is sufficiently clear, I do not think that the law would be constitutional. I think that the best approach, and what I have said in my testimony, is to focus on the inadequacies of airport security today. Senator, I do not need a plastic gun.

Senator **Metzenbaum**. We are in agreement on that, Mr. Baker. Let us not go back and keep pounding that dead horse.

Mr. **Baker**. I do not think that it is a dead horse.

Senator **Metzenbaum**. You said we have to improve airport security. I said okay, let us do that. If you cannot arrange a meeting with the government people, I will help you arrange it, but I am certain that you can.

Mr. **Baker**. All right.

Senator **Metzenbaum**. Now, I want to know what is there in your—is it a knee-jerk kind of reaction?

Mr. **Baker**. No, sir.

Senator **Metzenbaum**. We have knee-jerk liberals, we have knee-jerk conservatives.

Mr. **Baker**. No, sir.

Senator **Metzenbaum**. I want to know if we have knee-jerk gun people.

Mr. **Baker**. In fact, I am a registered Democrat, Senator.

Senator **Metzenbaum**. I do not care whether they are Democrats or Republicans. What I am concerned about is why can we not get you on this bill with us.

Mr. **Baker**. Because I think the bill is misplaced; the direction is wrong. I think that we have been shown here today that there are problems with the procedures at airports today.

I think the FAA has testified to that in Congresswoman Cardiss Collins' subcommittee not 2 months ago over in the House of Representatives. There is a problem with airport security in this country.

Senator **Metzenbaum**. Absolutely; we have agreed on that.

Mr. **Baker**. And I think that is where the legislation ought to focus.

Senator **Metzenbaum**. But what does that have to do with plastic guns?

Mr. **Baker**. Everything, because your legislation talks in terms of interdicting terrorists.

Senator **Metzenbaum**. Help us rewrite it.

Mr. **Baker**. I would be happy to.

Senator **Metzenbaum**. I do not care how we write it. All I want to do is get at the plastic guns.

Mr. **Baker**. Well, all we want to do is get at airport security.

Senator **Metzenbaum**. But, Mr. Baker, you cannot do that. We have had three important witnesses—the Secret Service, the ATF, and the FAA—who recognize you cannot get at plastic guns at this point. There is no way to do it.

Now, I am saying to you what is there about your position that does not permit you to help us draft a bill, if you do not like the way we have drafted this one.

Mr. **Baker**. I would be happy to help you draft a bill that deals with airport security.

Senator **Metzenbaum**. I do not want you for that. I want to know whether you will help me draft a bill for plastic guns.

Mr. **Baker**. I would be happy to discuss it with you.

Senator **Metzenbaum**. Will you help me draft a bill to zero in on the issue of plastic guns?

Mr. **Baker**. Senator, they do not exist. It is very difficult to deal with a hypothetical threat.

Senator **Metzenbaum**. What difference does it make whether they exist or not? They are going to exist in 2 years.

Mr. **Baker**. I do not think that that is necessarily so. I do not think we have had anybody testify here today that plastic guns are going to exist.

Senator **Metzenbaum**. They testified in the House to that effect.

Mr. **Baker**. And the gentleman was asked whether he had a working prototype and he did not have a working prototype. There is one promoter in south Florida that says he can produce a plastic gun. That is it.

Senator **Metzenbaum**. Then, Mr. Baker, what difference does it make if we draft a law that is applicable to something that does not exist?

Mr. **Baker**. Senator, the difference is what is the issue here. Is the issue airport security or is the issue banning firearms? Once we decide that, we can come to some agreement.

Senator **Metzenbaum**. Mr. Kapelsohn has pointed out to us that we do not do that great a job as far as airport security at the moment.

Mr. **Baker**. And that is the issue as far as I am concerned.

Senator **Metzenbaum**. Then you do not care about plastic guns. You do not care if a person comes on a plane with a plastic gun.

Mr. **Baker**. I do not care about plastic guns; they do not exist. I care about the threat to airports.

Senator **Metzenbaum**. Mr. Baker, understand that this Chairman—I am not the chairman of this subcommittee, but the acting chairman, but this committee is willing to work with you.

Mr. **Baker**. And I am willing to work with you, Senator.

Senator **Metzenbaum**. Okay, good enough. Let us go on to Mr. Halbrook.

Mr. **Baker**. Thank you.

[The prepared statement of James Baker follows:]

TESTIMONY OF JAMES JAY BAKER
DIRECTOR
GOVERNMENTAL AFFAIRS DIVISION
NATIONAL RIFLE ASSOCIATION
INSTITUTE FOR LEGISLATIVE ACTION

Mr. Chairman,

The National Rifle Association of America appreciates the opportunity to testify in opposition to S. 465.

One year ago, NRA testified against so-called "plastic" gun legislation. Those bills were generated in large part by inaccurate press reports of a new, supposedly undetectable pistol, the Glock 17. Before commenting on the specific problems with S. 465, I would like to update your information on this particular firearm.

The Glock 17 contains over 19 ounces of steel and is fully detectable with current airport security systems. Further, even the mostly plastic lower receiver of the Glock 17 is detectable by a magnetometer that has been set to FAA specifications.

The National Rifle Association is unalterably opposed to S.465, the Metzenbaum bill, or any similar bill that would outlaw any firearm on the grounds that it may cause terrorist crime.

Specifically, the National Rifle Association is opposed to S. 465 as it deals strictly with non-detectable firearms of which there are still currently no available examples. While there are real, difficult-to-detect threats such as some plastic explosives, non-detectable firearms are not on the list of those realistic threats.

The Metzenbaum bill, although it has been advertised as a "Terrorist Special" bill, is deceptive. It would outlaw many other handguns which are neither plastic nor "undetectable". The Metzenbaum bill is designed, and intended, to put a cap on small arms technology despite the fact that demand for "plastic," high tech firearms comes from law enforcement and the military, in addition to law-abiding citizens.

The bill's sponsors have complained that partial or fully-plastic firearms — which are in fact non-existent today — might evade airport security. But most astonishingly, rather than improve airport/airline security, their approach would make firearms contraband rather than punish terrorist violence or lax security personnel and procedures.

S. 465 gives the Secretary of the Treasury the discretion to determine which firearms will be produced based on a "standard" of detectability. Criminal statutes must clearly and concisely dictate the conduct that is proscribed in order to pass constitutional muster. The "standards" in this bill are vague and completely arbitrary. S. 465 is constitutionally void for vagueness.

Given the reported laxity of airport security personnel and the lack of adequate -- and in some cases any -- training in the use of existing detection equipment, the "standards" embodied in S. 465 could be used to outlaw every firearm currently in production. In other words, if the security personnel don't use the security equipment as they should -- and there are many indications they don't -- every firearm is potentially not "readily detectable."

Some months ago, we pointed out the difficulty of defining the so-called "plastic" gun. It is becoming increasingly clear that there can be no legislative definition. "Plastic" gun or "Terrorist Special" have become very elastic epithets, much like the "Saturday Night Special," used by politicians who are antagonistic to the private ownership of firearms to describe a firearm they don't like, meaning all handguns, or at least every handgun they think they have a chance to outlaw.

Every new bill on this subject has progressively broadened the purported definition of a "Terrorist Special." The alleged connection between the so-called "plastic" gun and terrorists has become a Trojan Horse to attack the ownership of all guns owned by honest, law-abiding Americans -- citizens who are not responsible for terrorist threats and who have done no wrong. There have been a series of attempts to define "plastic" guns with criteria that makes no sense to anyone, and, in fact, are wholly illogical unless the goal is a total handgun ban. It makes no sense that possession of a finely made handgun constructed of partial plastic or less than 8.5 ounces of steel and is fully detectable, costing many hundreds of dollars, should be made illegal. It makes no sense that a handgun made of partial or all "plastic" that is detectable by security equipment should be made contraband.

These purely arbitrary distinctions make no sense to me, and I dare say, they make no sense to the many millions of law-abiding citizens who own handguns which could be declared contraband by one or another of the various "plastic" gun bills.

The emotional arguments that are being made against "plastic" guns apply not only to all handguns, they can be directed just as easily against all firearms of any kind. If any article possessed by the public should be banned just because a terrorist may also possess it, that misguided argument will very shortly be made against rifles and shotguns too.

My point is that this issue is much broader — and reaches more people — than is suggested by focusing on "plastic" guns or on handguns. It potentially affects every American who owns a firearm.

Law-abiding people, and particularly firearms owners, are tired of being blamed for crime, and they are appalled at now being blamed for terrorism. They are sick of being harassed with federal bureaucracy and having their freedom progressively and incessantly chipped away because of the inability or unwillingness of government officials to deal with those responsible for crime, namely violent criminals and terrorists.

For reasons nobody has explained to the American people, supporters of this legislation seem unable to grasp the fact that there are mindless, cold-blooded and evil people who threaten to commit terrorist acts, who will not be deterred by legislation that seeks to ban an object rather than attack perpetrators of violent terrorism. It is incomprehensible that legislation would be considered that does not make even a pretense of improving airport security or training of screening personnel at our nation's airports, but instead focuses on banning an object as a panacea in thwarting potential terrorist violence.

As you know, it was recently documented by the Federal Aviation Administration (FAA) that airport security personnel and equipment fail to detect, on average, 20% of existing threats presented in tests. Furthermore, it is naive to believe that international terrorists are going to be affected by banning small arms technology in this country.

Experts from both FAA and the Bureau of Alcohol, Tobacco, and Firearms (BATF) recognize that the approach embodied in S. 465 is the wrong one. In the last Congress, the Director of Civil Aviation Security for FAA testified that:

> . . . despite a relatively common impression to the contrary, there is no current non-metal firearm which is not readily detectable by present technology and methods in use at our airports today, nor to my knowledge is anyone on the threshold of developing such a firearm.

This year, BATF Associate Director of Law Enforcement Phillip C. McGuire testified that:

> . . . there is still no evidence that a firearm intrinsically capable of passing undetected through conventional x-ray and metal detectors systems exists, or is feasible under current law or technology.

S. 465 shows more clearly why Handgun Control, Inc., and the National Coalition to Ban Handguns are actively lobbying in support of this new agenda. Though introduced as a "plastic gun/anti-terrorist" measure, this bill would also ban the future manufacture, sale, and transfer of thousands of steel handguns that are currently produced and legally owned.

S. 465 mandates that all firearms be "as detectable as the Minimum Security Standard Exemplar" — essentially a facsimile firearm made of 8 1/2 ounces of steel. Thus, S. 465 would give the Secretary of the Treasury absolute discretion to ban any firearm that is composed of less than 8 1/2 ounces of steel and is not subjectively "readily detectable" by anyone who might be assigned to operate airport x-ray machines. This gun ban legislation calls for it to be "unlawful for any person to manufacture, import, sell, possess, transfer, receive, ship or deliver any" such firearms.

This proposal is nothing more than the old "Saturday Night Special" legislation masquerading as anti-terrorism. In fact, there are only two differences between this legislative proposal and more traditional anti-"Saturday Night Special" legislation: First, the name of the alleged misusers of the guns to be banned has been changed from criminals to terrorists; second, there is greater hypocrisy, since advocates of "Saturday

Night Special" bills actually believed, wrongly, that criminals disproportionately misused smaller handguns whereas this proposal was actually spurred by guns developed for military and law enforcement personnel.

S. 465 is additionally offensive because of what we have learned — at the cost of hundreds of thousands of tax dollars — about criminal misuse of firearms during the past decade of criminological research. For example, we know that the more serious the crime and more predatory the criminal, the larger and less concealable the firearm used. Robbers use bigger guns than petty thieves; career criminals prefer larger guns. Though we fortunately have limited direct experience with terrorist incidents in this country, we know that European terrorists prefer more intimidating weaponry to carry out their nefarious deeds.

Further, the bill would ban thousands of miniature firearms — owned only by collectors and unusable in crime — that are functional and are composed of less than 8 1/2 ounces of steel, as well as tens of thousands of conventional firearms that currently exist. Current magnetometers can be activated by objects as small as a nail file, thus any "standard" dictating 8 1/2 ounces of steel bears no relationship to what is "readily detectable" at airports today.

To ban guns containing less than a certain amount of metal dangerously invites security devices to be set to that amount of metal. To "grandfather" certain guns which have less metal than the security devices will be set at invites the carrying of such arms through airports, as well as providing no response to other lower-metal content items such as knives, plastic bombs, other explosives and weaponry.

The attempt to "grandfather" in firearms that may not meet the standards but are currently possessed by law-abiding citizens if, in the words of the bill, "such firearm was manufactured prior to the date of enactment of this Act," would throw the legal status of tens of thousands of handguns into doubt unless their exact date of manufacture could be proved. The Treasury Department itself finds it difficult to "prove" a gun's date of manufacture; citizens would find such a task impossible. Further, the "grandfather" provision applies to the immediate possessor only, and indeed the possessor would have to prove ownership of the firearm before the date of enactment.

There is a very real security problem at airports in this country, but it has nothing to do with firearms, be they "plastic" or steel. The FAA has concluded that ". . . the first line of defense" must be "improved methods of screening as well as improving technology." More effective efforts include better training and screening of airport personnel and better equipment.

S. 465 shifts the focus away from the real problems and real solutions at airports. It is increasingly clear that terrorists don't need a "plastic" gun to breach airport security -- all that a potential terrorist needs to do is apply for a job with airport security or any of the many airline jobs that provide access to restricted areas. While FAA regulations exist as to employee qualifications, security personnel training, and security equipment, it is well known that these minimal safeguards are not being complied with on a national level.

Legislation that seeks to ban handguns is nothing new. It is new, however, to attempt to do so in the name of airport security. This legislation simply gives a new label, "airport security," to the reason for banning small handguns. As Prof. Gary Kleck has concluded, "gun control measures aimed at reducing general availability of SNSs (Saturday Night Specials) . . . are aimed at, and would have their greatest impact on, handgun ownership for defensive purposes among the law-abiding poor." Simply put, SNS legislation and "anti-terrorist" legislation that would ban several handguns is discriminatory. Instead of focusing on documented threats that currently exist, S. 465 is just one more attempt to penalize legitimate gun owners while having no effect on crime, terrorism, or airport security.

Any law passed in this country dictating restrictions on manufacturing methods or materials will not impact on terrorists who will obtain their tools of terror illegally or outside the United States. Terrorists will not feel compelled to comply with either manufacturing restrictions or import restrictions and ,therefore, the purpose of the legislation under consideration today will not be achieved. The NRA believes that the only workable approach to the interdiction of existing threats such as plastic explosives and hypothetical threats such as an all-plastic firearm are better security measures at our nation's airports.

In this regard, there are new and better x-ray machines already available that are not on-line at our nation's airports. There are effective explosive detection devices that are not on-line. Additionally, our nation's airport security functions are contracted out to the lowest bidder rather than the most qualified, and FAA security guidelines are often ignored during peak passenger times. Given these facts, we believe that the clear and compelling priority is for better security personnel with state-of-the-art detection equipment that is available now and on-line in many foreign airports. Attempting to deal with a contingent hypothetical threat is not responsive to the issue of existing terrorist threats.

S. 465 would give the Secretary of the Treasury the authority to decide which firearms can and can't be manufactured and/or possessed in this country based on the vague criteria of "readily detectable." These criteria would allow an anti-gun Treasury Department to ban many firearms currently in use. That is why the American gun-owning community considers this so called "plastic gun/anti-terrorist legislation," S. 465, as pure and simple anti-gun legislation.

We believe the issue would be more properly framed if it focused upon the entire airport security system: personnel, equipment, and procedures. We oppose legislation aimed at hypothetical threats and containing vague definitional "standards" that, given the current state of airport security, could be used to outlaw the manufacture of all firearms, be they steel or plastic.

Mr. Chairman, the National Rifle Association opposes S. 465.

Senator METZENBAUM. Mr. Halbrook, you are from Fairfax, VA, and I do not know much more about you. Tell us about yourself.

STATEMENT OF STEPHEN HALBROOK

Mr. HALBROOK. Thank you, Mr. Chairman. I appear as a published scholar and litigator in the fields of firearms, constitutional rights, and air carrier security. I submitted to the committee copies of my recent publication in the Journal of Air Law and Commerce.

Senator METZENBAUM. You are going so fast and you are not speaking into the mike. I am having trouble hearing you.

Mr. HALBROOK. Yes, Senator.

Senator METZENBAUM. And I do want to hear you.

Mr. HALBROOK. I did submit to the committee a recent publication of mine from the Journal of Air Law and Commerce in the area of firearms, the fourth amendment, and air carrier security.

I have published numerous treatises on the second and fourth amendment issues involving firearms, and I am a practicing attorney in Fairfax.

Mr. Chairman, the need exists to develop screening devices to detect plastic pistols which may be developed in the future. No working prototype of a plastic pistol currently exists.

A far more pressing need exists to limit the size of carry-on baggage so that it is fully screenable by x-ray. Any current failures to detect firearms such as the Glock 17 are due to defective screening procedures rather than non-detectability of firearms.

S. 465 would ban firearms with less than 8½ ounces of steel. The North American Arms mini-revolver weighing four ounces is fully detectable. Miniature firearms are prized collector's items that range in caliber from the minuscule, for which commercial ammunition is unavailable, to .22, and are not real weapons of offensive or defensive combat.

Here are pictures of miniatures compared with coins. This one was made in the 1500's and here is one that is a cartridge firearm made in this century. These works of art are often filled with gold and precious stones. A statement to you from the Miniature Arms Collectors Society is included with my written testimony. None of the above firearms have ever been used in a hijacking.

S. 465 would allow BATF, FAA, and FDA to ban firearms merely by changing standards of detectability. A ban on firearms with plastic components would violate the second amendment right to keep arms in the home.

Alternatives to firearms bans include development of plastic-sensitive screening devices, use of armed air marshals, enhanced punishment for air piracy, limits on carry-on baggage, and improvements in air security training.

An example has been cited of a Glock 17 discovered by People Express Airlines at National Airport. It was packed in a large American Tourister suitcase and, according to the FAA investigation, was detected by x-ray.

People Express used defective screening procedures and failed to detect large metal firearms because it required passengers to pass baggage through the x-ray before it could be checked.

Yet, the x-ray devices are designed only for smaller carry-on baggage. People Express failed to detect a foot-long, 3-pound of metal weight Colt pistol at National Airport in September of 1986 and a .38 Smith and Wesson revolver with 71 rounds of ammunition at Newark in July of 1985. Other examples could be cited.

Proper screening requires an airline to check baggage before passing through x-ray and limitations on the size and amount of carry-on baggage. The FAA has just adopted such a regulation.

The Association of Flight Attendants has petitioned for specific maximum size dimensions for carry-on bags. This will assist in detection of metal or plastic firearms.

As noted, S. 465 would require a minimum 8½ ounces of metal. North American Arms and Freedom Arms market mini-revolvers weighing only 4 ounces, and 3 ounces with cylinder removed.

These x-rays taken by Astrophysics Corp. show that the mini-revolver is fully detectable with and without the cylinder. The FAA has confirmed that these weights are also detectable by magnetometer. Indeed, both factories which manufacture these arms have metal detectors at the exits to deter theft. Employees must pass through them at the end of the work day.

Finally, the mini-revolver, a tiny single-action .22, is far too small and unlethal for use in a hijacking.

Agency discretion to ban technologically advanced firearms would violate the second amendment right to keep arms. The BATF director would become the czar of the firearms industry and consumers.

The FAA could ban firearms by changing magnetometer standards and the Food and Drug Administration could do so by changing x-ray standards. Requiring detection implants or chemicals in firearms could lead to police surveillance and invasion of privacy in the home and other places far removed from airport screening checkpoints.

Congress has reaffirmed the second amendment individual right to keep arms in 1789, 1941, and 1986. Let us not celebrate the bicentennial of the Constitution by violating constitutional rights.

Thank you, Mr. Chairman.

Senator METZENBAUM. Mr. Halbrook, thank you for your testimony. If guns capable of being carried undetected through metal detectors became available tomorrow, how would you suggest we secure airports or public buildings?

Mr. HALBROOK. Well, we do have one luxury, the fact that these firearms do not exist, and we have a gap, and we will see which side wins as far as the race goes in terms of the equipment versus the firearm.

I think we set a bad precedent by banning a firearm that does not exist when the need does not exist currently. I think if plastic pistols were developed before the x-ray equipment or the metal detector equipment became available, then there might be a pressing need for this legislation.

I do not have an answer for that would happen tomorrow when that will not happen tomorrow. It is a hypothetical that does not exist.

Senator METZENBAUM. Well, Mr. Halbrook, in fairness to those who might be the manufacturers, do we not perform a public service if we pass legislation in advance telling them do not manufacture this kind of product because it is going to be illegal from day one and you are going to be violating the law?

Are we not serving a public purpose by passing that kind of legislation?

Mr. **Halbrook**. Well, I thought the bill was to prevent terrorism and I do not think the bill as currently drafted would do so. As far as being fair to manufacturers, if they are currently producing or they come to produce something that is not illegal, then I do not see what the problem would be. If it later becomes illegal, you could say that about any firearm, though.

Senator **Metzenbaum**. You are taking me around the block now, Mr. Halbrook. You are taking me around the block because you are saying, well, if it is not illegal, why not let them go ahead and manufacture them. Then you are saying they are not being manufactured yet, so we do not need any law to do anything about it.

I am saying, well, let us get there ahead of them. If we get there ahead of them and say do not manufacture them because it is illegal to manufacture them, what earthly harm are we doing to any single one person of the 239 million that live in this country today?

Mr. **Halbrook**. Well, if, once again, the industry and their profits is one of the motives of the bill, there are bills currently in existence that would ban semi-automatic firearms and I do not think that we are doing the industry a favor by telling them do not manufacture them anymore because they might become illegal some day.

Senator **Metzenbaum**. I am not thinking of the industry; I am thinking of the people who might be terrorized by the use of plastic guns. I mean, it is not only on airplanes. It might be public officials, it might be the President of the United States, it might be Senators.

Mr. **Halbrook**. I think if we are practical about the matter--and this is, I think, one luxury again that we have, the fact that they do not exist. I mean, you could just as well be banning x-ray guns or water guns or other kinds of guns that do not exist except in someone's imagination.

The testimony was clear on the House side that no working prototype exists by that south Florida manufacturer, and I think that we should use this time to try to come up with the detection equipment.

If somebody comes on the market and it looks like there might be a plastic gun that is undetectable by whatever the stage of the detection equipment is at that point, then we might have a problem and more of a pressing need for the legislation, but at this point I do not think that we should be banning things that do not exist.

Senator **Metzenbaum**. I think you indicated in your written testimony that a ban on plastic guns, even a temporary one, violates the second amendment. Do you believe that?

Mr. **Halbrook**. Well, the second amendment does refer to the right of the people to keep arms and it does not refer to the right of the people to keep only detectable arms. I think as long as you are not in an airport or a public place, if there was a firearm that was undetectable and it was in your home, I do not see how you could make that a felony.

Senator METZENBAUM. Well, Congress passed a law banning machine guns. Do you think that violates the second amendment?

Mr. HALBROOK. I think that there are serious constitutional questions with that legislation, yes, and I think it does violate the second amendment.

Senator METZENBAUM. If Congress decided to ban private ownership of destructive devices like bazookas, would that also violate the Second Amendment?

Mr. HALBROOK. Well, there we start drawing a line. Destructive devices are not commonly kept traditionally by the people for lawful purposes, and I think that they are not useful for self-defense or other legitimate purposes. So nuclear arms and things like that are not protected by the second amendment, which refers to the kinds of arms that are kept and borne and not operated with crew-served machines or equipment.

Senator METZENBAUM. Thank you very much, Mr. Halbrook.

Mr. HALBROOK. Thank you, Senator.

[Submissions of Stephen Halbrook follow:]

SUMMARY OF TESTIMONY ON S. 465

by Stephen P. Halbrook

The need exists to develop screening devices to detect all plastic pistols which may be developed in the future. A far more pressing need exists to limit the size of carryon baggage so that it is fully "screenable" by x-ray.

Any current failures to detect firearms such as the Glock 17 are due to defective screening procedures rather than nondetectability of the firearms. Mini-revolvers are fully detectable and have no utility for a hijacking. Miniature pistols are prized collectors' items, range in caliber from the minuscule (for which commercial ammunition is unavailable) to .22, and are not real weapons. Firearms which are not recognizable as such are typically single-shot gadgets which are already strictly regulated under the National Firearms Act. None of the above firearms have ever been used in a hijacking.

S. 465 would allow BATF, FAA, and FDA to ban firearms merely by changing standards of detectability. A ban on firearms with plastic components would violate the Second Amendment right to keep arms. Criminalization of firearms which are not susceptible to search and seizure and which do not "communicate" with the police so as to incriminate their possessors may violate the Fourth and Fifth Amendments.

Alternatives to firearms bans include development of plastic-sensitive screening devices, use of armed air marshals, enhanced punishment for air piracy, limits on carryon baggage, and improvements in air security training.

BANNING SMALL METAL FIREARMS AND PLASTIC FIREARMS: TESTIMONY ON S. 465

by

Stephen P. Halbrook, Ph.D., J.D.*

Subcommittee on the Constitution

Senate Committee on the Judiciary

July 28, 1987

---

*Attorney at Law, 10605 Judicial Drive, B-3, Fairfax, Virginia 22030, (703) 385-8610; author of Firearms, the Fourth Amendment, and Air Carrier Security, 52 JOURNAL OF AIR LAW AND COMMERCE 585-680 (1987). Ph.D., Florida State University; J.D., Georgetown University. Former philosophy professor, Tuskegee Institute, Howard University, and George Mason University. Also author of The Fourteenth Amendment and the Right to Keep and Bear Arms, The Right to Keep and Bear Arms: Report of the Subcommittee on the Constitution, Senate Judiciary Committee, 97th Cong., 2d Sess., 68-82 (1982); THAT EVERY MAN BE ARMED: THE EVOLUTION OF A CONSTITUTIONAL RIGHT (University of New Mexico Press 1984); and To Keep and Bear Their Private Arms: The Adoption of the Second Amendment, 1787-1791, 10 Northern Kentucky Law Review 13-39 (1982), reprinted in 131 CONG. REC., 99th Cong., 1st Sess., S9105-9111 (July 9, 1985).

S. 465 would ban small metal firearms, plastic firearms, and firearms made to resemble other objects. The prohibitions would be imposed without regard to place or circumstances, including innocent possession of a collection of miniatures in one's home. Other than plastic firearms of which not even a prototype has been made, the firearms to be banned have been made for hundreds of years and have never reportedly been used in a hijacking.

Subsection (1)(A) would ban any firearm that the Secretary determines "is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines in walk through metal detectors approved by the Federal Aviation Administration for use at airports in the United States . . . ." Subsection (2)(B) in turn provides that the "Minimum Security Standard Exemplar means a firearm substitute, used for testing, resembling a North American Arms .22 caliber rim fire weapon, which is 4½ inches in length, 2 inches in height, material type 17-4 PH stainless steel or 1040 mild steel, weighing 8½ ounces."

Subsection (1)(B) would ban any firearm that the Secretary determines "is not identifiable as a firearm, or readily detectable, by cabinet x-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R.

1020.40(b)(3)), designed for inspection of carry-on baggage." Further, Subsection (2)(A) provides that "'firearm' means any completely assembled and fully operable weapon as defined in paragraphs (A), (C), and (D) of section 921(a)[3] . . . ." That definition includes "(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; . . . (C) any firearm muffler or firearm silencer; (D) any destructive device." The definition does not include subsection (B), "the frame or receiver of any such weapon."

The above definitions of firearms are contradictory, in that "any completely assembled and fully operable weapon" is defined as including inoperable weapons which "may readily be converted" to shoot. Moreover, such terms as "detectable," "identifiable," "readily," and "resembling" are far too vague and subjective to be in a criminal statute.

The following analyzes the types of firearms S. 465 would ban. It then discusses how three agencies would be able arbitrarily to ban firearms by changing standards. It next analyzes the constitutionality of this legislation under the Second, Fourth, and Fifth Amendments. Concluding remarks pose alternatives to protect air carriers from terrorist acts.

Nondetection of Existing Firearms Is the Result of Improper Screening Procedures

Despite evidence that the Glock 17 is fully detectable, it has repeatedly been stated that a Glock 17 went undetected through the x-ray maintained by People Express Airlines at National Airport on March 17, 1986. The Glock was packed in a very large American Tourister suitcase intended to be checked. The suitcase was inadvertently offered for screening because the passenger did not know People Express had no regular area to check baggage, and did not know the suitcase contained firearms since it belonged to someone else. Criminal charges were therefore dismissed.

The FAA letter to the passenger in the above incident clearly states that the Glock 17 pistol discovered was "detected after x-ray examination of your luggage."[1] Had the Glock not been immediately apparent, it would have been because of the size of the suitcase.

People Express screening personnel clearly failed to detect the following large metal firearms which went through their x-ray systems in large baggage intended to be checked:

Firearm	Date	Airport
.36 cal. Colt Navy pistol (44 oz. metal weight, 13" overall length), a bayonet, and handcuffs	Sept. 27, 1986	Washington National[2]
.38 cal. Smith & Wesson revolver and 71 rounds ammunition	July 3, 1985	Newark[3]
two (2) .25 cal. ACP pistols	June 4, 1985	* *

Unlike all other airlines, People Express had no area to check large baggage before entry into the sterile area where only carryon baggage normally goes. However, current airport x-ray systems are "designed primarily for the inspection of carry-on baggage,"[4] and are not designed effectively to screen larger baggage which is normally checked. The larger the baggage, the more difficult it is to decipher its contents. Screening of all baggage before it is checked, besides violating the Fourth Amendment, adds to the confusion and volume at the x-ray system. This is why the flight attendants associations have proposed limits on carryon baggage as a deterrent to hijackings.[5] The FAA has just adopted new regulations which restrict the size of carryon baggage.[6]

People Express symbolized the failure of the non-uniform security screening: no opportunity to check baggage before x-ray screening meant hundreds of otherwise legally transported firearms inadvertently went into the sterile area,[7] and the extra confusion at the x-ray meant that some weapons went through undetected. Baggage too large to fit through and be screened by the cabinet x-ray or walk-through magnetometer was allowed by People Express into the sterile area unscreened; one such incident occurred at Dulles Airport on Dec. 21, 1984, when a whole cart of baggage went unscreened.[8]

People Express' screening procedures were in blatant violation of the mandate of Congress that authorized screening of carryon baggage only for weapons and required that screening procedures be uniform for all airlines.[9]

The example of the Glock 17 at National Airport does not indicate that the Glock 17 is undetectable, but instead highlights that Congress and FAA should never again allow an airline to turn security screening upside down. Sane limits on the size of baggage going into the sterile area must be set so that it may be properly screened.

Mini-Revolvers--North American Arms and Freedom Arms

S. 465 does not specifiy which model of the North American Arms .22 caliber rim fire weapons it intends to use as the Minimum Security Standard Exemplar. Several models of mini-revolvers are currently manufactured by North American Arms and Freedom Arms chambered for .22 short, long, long rifle, and magnum cartridges.

Requiring 8½ ounces of steel is arbitrary and unnecessary, in that both companies manufacture mini-revolvers that weigh as little as 4 ounces, and the FAA states that airport metal detectors are set to detect less than 4 ounces of metal.[10] Indeed, even with the cylinder, pin, and grips removed, leaving only the barrel and frame,the mini-revolver weighs 3 ounces and is still fully detectable by magnetometer.

Both the North American Arms and Freedom Arms factories maintain the same kind of magnetometers used at airports.[11] As a precaution against theft, each employee is required to walk through the metal detector when leaving work. These metal detectors will detect the mini-revolver, even with the cylinder removed, as well as keys, steel toe shoes, and other small metal objects.

Freedom Arms reports that General Electric uses its mini-revolver to test airport metal detectors, and that the Los Angeles Olympics organization purchased some to set their metal detectors. The company also makes a brass belt buckle which will carry the mini-revolver in plain view. An FAA Security Bulletin reports that this too is fully detectable (most instances probably involve nonpassengers who forgot they were wearing it):

> Screening checkpoints across the nation have detected the belt buckle containing the .22 Long Rifle, a 5-shot revolver manufactured by Freedom Arms. . . . In most instances, the presence of this firearm was detected in the walk-through screening process.[12]

Mini-revolvers are also fully detectable by x-ray. For the benefit of the U.S. Congress in considering legislation such as S. 465, North American Arms had special tests made on its mini-revolvers by Astrophysics Research Corp., which manufactures most x-ray systems in current use at airports. Astrophysics has reported that the mini-revolver is "very detectable," as is evidenced by the series of x-ray photos which are included with this testimony.

The mini-revolver is typically used as a police backup weapon--numerous officers have written the companies that it has saved their lives--and as a lightweight arm for outdoorsmen. Legitimate uses include plinking, trapping (to minimize pelt damage), and hunting (for the coup de grace).

The mini-revolver has no utility for hijacking an airplane. Its extremely small size means that it has little accuracy other than at point-blank range, does not inflict fear, and may not be recognized as a real gun. The grip is so small that it is held only by one finger (the middle finger), and could be knocked out of the hand. It is single action, meaning that the hammer must be cocked before the trigger is pulled. After five shots are fired, the cylinder must be removed, the spent brass must be pushed out of each cylinder, and then laborious reloading performed. Use of the .22 cal. rimfire cartridge with a barrel of only 1 or 2 inches may result in only superficial wounds. The fact that no mini-revolver has ever been used in a hijacking attempt, but has been manufactured for many years, proves its lack of utility for any such purpose.

S. 465 would ban most mini-revolvers even though they are fully detectable. This is simply another attempt to prohibit firearms with no showing that any good would result.

Miniature Firearms

S. 465 would ban any firearm that is smaller than the 8½ ounce North American Arms .22 caliber rimfire revolver. Senator Metzenbaum erred when he stated: "Based on available information, there is only one gun available in the United States which would be banned by this bill."[13] The fact is that miniature firearms have been made by craftsmen and possessed by law-abiding collectors for centuries.

Miniature firearms have been made since the 1500s. One beautiful collection from that period of miniatures with gold inlays and ivory stocks is currently on display at the Museum of Art in Philadelphia.[14]

Miniature firearms are typically 1/2 to 1/5 scale. The largest are in .22 caliber rimfire and the smaller ones are in calibers for which commercially produced ammunition is not available. It is estimated that there are less than 35 master craftsmen in the United States who make miniatures, and 100 in the world. It takes as many as 1,000 hours to make one miniature firearm.

A brochure prepared by the Miniature Arms Society, a statement on S. 465 by the Society, and a sample advertisement for Colt miniatures are included at the end of this testimony. Merrill Lindsay states in his book, Miniature Arms (1970) as follows: "The marvelous examples of the watchmaker's, the machinist's and the jeweller's skill usually function and sometimes shoot. As the tiny firearms were often engraved, sculpted, and inlaid with ivory or precious stones, they are more apt to represent sporting weapons than utilitarian military models. . . . The few pieces, whether modern or ancient, which are not already in museums command prices comparing with the finest jewelry."[15]

Lindsay further remarks, "The oldest pieces . . . date from the mid-16th century. The newest are the work of jeweller Billy Johnson of Birmingham, Alabama, Walter Agroletto of Turin, Italy and Raymond E. Hutchens of Indianapolis."[16]

Miniatures which fire cartridges illustrated in Lindsay's book are as follows (page numbers in parenthesis):

Half-scale Colt derringers and Remington over-and-under (67)
.01 cal., 3/16" barrel, solid gold derringer (71)
Pin-fire pistols, shoot the standard mini pin fire cartridge (71)

Browning, Luger and Mauser semiautos miniaturized in the Kolibri and Liliput pistols; fire smallest commercially produced center fire cartridge ever made. (73)
.2 mm cartridge rim-fire revolver (77)
3" long rolling block Remington pistol (79)
1" long, gold pinfire revolver, double action (81)
.22 cal. short, 3" long, 7/8 oz. derringer (83)
.22 cal. short (black powder) Colt revolvers (85)
.22 cal. long, Colt/Remington set (95-96)
7 7/8" double barrel shotgun/rifle (98)
2.7 mm Kolibri semiauto (99)
4.25 mm Liliput semiauto (99-100)
.22 cal. Eley revolver (100-101)
Colt .45 lookalike (100-101)

A potential hijacker would have no use for a miniature firearm. These collector's items have such short barrels, small calibers, and minuscule ballistics that many are not really "weapons" at all. As expensive collectors' items, miniatures are not normally even fired, but if one was fired, it would be extremely inaccurate and might produce no more than a superficial wound.

18 U.S.C. Section 921(a)(3)(A) provides: "The term 'firearm' means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive . . . ." A Freedom of Information Act request to the Bureau of Alcohol, Tobacco and Firearms failed to generate any record, other than one ruling about ½ scale .22 caliber miniatures, as to whether miniature firearms are "weapons" or "firearms" under the Gun Control

Act.[17] However, a 1954 Revenue Ruling states:

> The 'pistol' in question is an inexpensive plastic toy gun designed to resemble the German Luger automatic pistol. It operates on the muzzle loading ball and cap principle using a No. 6 shot as a projectile, similar to a BB gun.
>
> Although this pistol operates on the principle of expelling a projectile by the explosive action of an ordinary powder cap, it is not considered to be a "weapon" according to the commonly accepted definition of that term as an instrument of offensive or defensive combat and therefore is not a firearm under the Federal Firearms Act.[18]

A similar product was the subject of litigation in *Lunde Arms Co*. v. *Stanford* (S.D. Ca., 1952),[19] which arose out of an incorrect determination by the Postmaster that a toy pistol was a firearm and hence unmailable. The court's analysis is applicable to many miniature firearms:

> To be a firearm an implement must be a *weapon*. This is made clear not only by an examination of every standard dictionary, but by the definition formulated by Congress in the Federal Firearms Act, 15 U.S.C.A. Section 901(3). A weapon is defined in Webster's New International Dictionary, 2nd edition, as:
>
> > "An instrument of offensive or defensive combat; something to fight with; anything used or designed to be used in destroying, defeating or injuring an enemy."
>
> One of plaintiff's products was admitted in evidence by stipulation of the parties. It appears to be an ordinary cap or toy pistol, with a simulated barrel and cylinders. A closer examination reveals that a small tubular barrel about an eighth of an inch in diameter has been mounted on top of the

> simulated barrel and extends from the muzzle back to the point where the caps are inserted behind the simulated cylinders. To operate the pistol a small lead bird shot is inserted in the muzzle of the tubular barrel and, by use of a small ramrod, is pushed back to the other end of the barrel. A small cap such as is used in the ordinary cap pistol is then inserted and when fired the explosion of the cap causes the lead bird shot to be expelled from the muzzle of the barrel. The court conducted several tests in chambers which included holding the left hand about three feet from the muzzle and firing the pistol causing the pellet to strike the palm of the left hand. The result was a sharp sting of temporary duration similar to the bite of a mosquito. To denominate such an instrument a weapon is an absurd departure from reality. It would be ridiculous to say that it could be used for "combat" or "to fight with" or "destroying, defeating or injuring an enemy."[20]

By the same token, the premise that firearms smaller than the 8½ ounce North American Arms .22 caliber rimfire revolver are "weapons" is an absurd departure from reality. A miniature firearm has no use whatever for a hijacker, and a ban on the four-hundred-year-old craft of making and hobby of collecting miniatures would serve no useful purpose.

"Not Identifiable as a Firearm"

S. 465 would ban any firearm the Secretary determines "is not identifiable as a firearm . . . by cabinet x-ray systems. . . ." This would prohibit another major category of firearms of interest mainly to collectors, namely cane guns, pen guns and other firearms not identifiable as such regardless of whether they are in an x-ray or not. Once again, there is no instance where a hijacker used such weapons, most of which are small caliber, single shots which require laborious reloading once the first shot is fired. Anyone relying on such a device could be quickly overpowered by the intended victims.[21]

These firearms are already strictly regulated in the National Firearms Act in the "any other weapon" category.[22] Congress has recognized the legitimate, collector interest in such firearms by providing: "The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary or his delegate finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon."[23]

Some of these firearms are works of art, made of gold and jewels.[24] Others are simply interesting devices and novelties which are impractical as weapons.[25]

An excellent discussion of the legitimate collector interest in such firearms is provided in Davis v. Erdmann (10th Cir. 1979).[26] The Court of Appeals described the device, a "knife-pistol," and explained the lack of criminal misuse thereof as follows:

> The device has the appearance of an ordinary pocket knife less than four inches in length. It is so constructed that a small steel tube approximately one-and-a-quarter inches in length fits into the handle, with one end pointing outward from the end of the knife. The construction is such that the inner end of the tube or barrel can be sufficiently elevated to permit the insertion of a .22 short caliber cartridge. The tube may then be returned to the knife handle in which there is some sort of breach block and a firing pin mechanism. The knife is equipped with a small lever which, after being elevated and squeezed shut, will activate the firing pin with sufficient force to detonate the cartridge.
>
> The evidence is undisputed that this particular type of knife-pistol was known to leading collectors, museum officials and other knowledgeable persons, as rare and unique, and primarily a collector's item. There was no evidence that a knife-pistol of this make was in the possession of anyone except collectors and museums, including the Smithsonian Institute. There was no evidence that such a device had been used in the commission of crime. Experts testifying on behalf of the Director admitted that they knew of no instance where a knife-pistol had been used as a weapon. Officials of the New York City and Los Angeles police departments testified that they knew of no instance where such a device had been used in the commission of crimes. Such weapons were considered by them to be impractical for use in the commission of crimes in view of the availability of conventional and concealable small arms at low cost. Although Bureau experts were of the opinion that the knife-pistol would be used in the commission of a crime, there was a total lack of evidence to support this view, and they knew of no instance where one had been so used.[27]

This case also illustrates the potential for abuse by entrusting discretion in the Secretary to determine whether a firearm is not identifiable as such. It took years of litigation resulting in the following holding by the Court of Appeals to get the device reclassified:

> The issue is not whether the knife-pistol could be used as a weapon, but whether it is 'primarily a collector's item and not likely to be used as a weapon,' or is 'a curio or museum piece.' The knife-pistol is within either definition.
>
> From this record and the law, it is difficult to understand the unrelenting opposition of agents of the Bureau, including the Director, to the granting of this permit to import a so-called weapon which for all practical purposes was a useless gadget. Over the long period of controversy, agents of the Bureau gave many reasons for the refusal, most of which were irrelevant to the issue. The Director's office later admitted in writing that some of those reasons were false or without factual basis. Denial of the permit appears to be a classic example of agency 'nitpicking,' and an arbitrary and capricious action.[28]

To the extent they are addressed in S. 465, these devices are already adequately regulated by the National Firearms Act. Stephen E. Higgins, Director of the Bureau of Alcohol, Tobacco and Firearms, testified in 1986 concerning other bills that "the National Firearms Act has proven to be a valuable law enforcement tool against organized criminal elements and illegal drug dealers. We believe that our current efforts to enforce the National Firearms Act adequately deal with the problems addressed by these bills."[29]

Mr. Higgins elaborated further about registered NFA firearms when he testified in 1984 as follows:

> I would now like to turn to the manner in which we regulate legally registered NFA weapons. These weapons are held by collectors and others; only rarely do they figure in violent crime.
>
> . . . We would suggest that ATF's interest is not in determining why a law-abiding individual wishes to possess a certain firearm or device, but rather in ensuring that such objects are not criminally misused.
>
> The regulatory scheme for dealing in or legally possessing NFA weapons . . . is straightforward and provides safeguards which are adequate, in normal circumstances, to ensure that the firearms remain in the hands of law-abiding individuals.
>
> Under the Gun Control Act of 1968, in order to deal in NFA weapons . . ., an individual must be licensed and additionally must pay a Special Tax. The processing of a license application includes an NCIC check on the applicant to ensure that he has no disabling criminal history.
>
> This same type of control extends to an individual who desires to possess an NFA weapon. . . . The prospective transferor must submit an application to us to transfer and register the firearm or device to a transferee. He must include with the application the fingerprints and a current photo of the transferee, a certification by the local chief law enforcement officer that possession of the weapon would not place the transferree in violation of local law and that he has no information that the individual would use the weapon in violation of local law.
>
> A written statement is also required from the transferee that possession of the weapon or device is consistent with public safety and is reasonably necessary. . . .

> In summary, I would say that the National Firearms Act provides a satisfactory regulatory framework for keeping track of legally obtained weapons possessed by responsible, law-abiding gun owners. The act also constitutes a strong tool for the ATF special agents in their battle with today's violent criminal.[30]

1984 data shows a total of 31,330 "any other weapons" registered with BATF.[31] It is inconceivable that a collector whose photograph and fingerprints are on file with BATF would attempt to hijack an airplane and use such a device for that purpose. All such firearms which are unregistered are already illegal and need not be made illegal again by S. 465.

Agency Discretion Arbitrarily to Ban Firearms

S. 465 explictly would empower three separate federal agencies to ban firearms. Those agencies are as follows:

BATF. Subsection (1) provides "that the Secretary determines" whether a firearm is not as detectable as the Minimum Standard Exemplar in walk through metal detectors, or not identifiable as a firearm, or readily detectable, by cabinet x-ray sytems. The test is what the Treasury Secretary determines, not what actually is the case. The Secretary would become the Czar of what firearms could be made, sold, and possessed.

FAA. Subsection (1)(A) provides that the test of being as detectable as the Exemplar is made "in walk through metal detectors approved by the Federal Aviation Administration for use at airports in the United States. . . ." FAA could ban firearms merely by changing metal detector standards.

FDA. Subsection (1)(B) bases the identifiability as a firearm or ready detectability of a firearm on "cabinet x-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1020.40(b)(3), designed for inspection of carry-on baggage." FDA may ban firearms merely by changing x-ray standards.

The requirement that a firearm contain a minimum of 8½ ounces of steel is arbitrary in that magnetometers can be set to detect much smaller amounts of metal. The courts have made such findings as follows: "somewhere in the order of 50% of the persons who pass through trigger it."[32] "The magnetometer could be activated by a range of metal objects from a religious medal to a steel arch in a shoe."[33] "An object as small as a nail file will trigger it."[34]

FAA statistics on kinds of weapons involved in U.S. hijacking incidents demonstrate the complete impossibility of banning any and every object which an x-ray or magnetometer may not detect. In the period 1961-1985, 21 alleged firearms and toy firearms were used as fakes to accomplish hijackings, as were 48 real and alleged knives, 89 alleged bombs (including fake hand grenades), and numerous miscellaneous items (a bottle of rum, a broken bottle, ice pick, etc.).[35] Realistic looking plastic replica guns or grenades have been used to stage hijackings, but it would be impossible to ban them.

FAA records do not indicate that any real firearms other than conventional ones have ever been used in hijackings.[36] Mere capacity for use in such a crime does not justify a ban any more than capacity or misuse of automobiles would justify banning them. Conventional firearms have been smuggled onto airports avoiding the security checkpoint altogether, for instance, by scaling the fence around the airport perimeter.[37] A foreign airline was recently hijacked by an airport security guard as a protest over low wages.[38] Would such an instance justify banning security guards?

Second Amendment Problems

The broad constitutional issues raised by the proposed bills are whether a ban on firearms violates the right of the people to keep arms, and whether Congress even has authority under Article I, Section 8 of the Constitution to enact such a ban. These concerns are well stated in the Congressional Findings of the Firearms Owners' Protection Act of 1986, which states:

> The Congress finds that--
>
> (1) the rights of citizens--

> (A) to keep and bear arms under the second amendment to the United States Constitution;
>
> (B) to security against illegal and unreasonable searches and seizures under the fourth amendment;
>
> (C) against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and
>
> (D) against unconstitutional exercise of authority under the ninth and tenth amendments;
>
> require additional legislation to correct existing firearms statutes and enforcement policies; and
>
> (2) additional legislation is required to reaffirm the intent of the Congress, as expressed in section 101 of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes."[39]

This was not the first time that Congress has reaffirmed the fundamental character of the right to possess arms. The Property Requisition Act of 1941 was enacted subject to the proviso that "nothing contained in this Act shall be construed . . . to impair or infringe in any manner the right of any individual to keep and bear arms . . . ."[40]

When James Madison first proposed the Bill of Rights to the House of Representatives in 1789, he included the right to have arms among "private rights." Madison concurred with the uncontradicted published interpretation of what became the Second Amendment that "the people are confirmed . . . in their right to keep and bear their private arms."[41] The Senate rejected an amendment which would have limited the right to have arms to "the common defense."[42] The original historical research overwhelmingly demonstrates that the Second Amendment was intended to guarantee the individual right of every law-abiding citizen to possess firearms.[43]

A ban on firearms constructed of technologically advanced materials would clearly infringe on the right of the people to keep arms. The use of plastic or polymer components does not remove firearms from constitutional protection.

Fourth and Fifth Amendment Implications

The proposed bills would prohibit firearms based on whether they are "detectable" or "identifiable" by use of devices which are used to search for and seize weapons. Such searches and seizures result in incriminating evidence. The Fourth and Fifth Amendment implications of such legislation are unchartered and potentially ominous.

The courts agree that the use of x-ray systems and magnetometers are searches under the Fourth Amendment. Such searches have been held to be reasonable if the passenger consents by voluntarily entering the sterile area after seeing posted warning signs and retaining the opportunity to check baggage he does not want searched for weapons.[44] No court has ever considered the validity under the Fourth Amendment of the criminalization of possession of an object which may escape detection or identification from devices utilized to conduct searches and seizures.

Would such an enactment coerce individuals to forfeit privacy rights in objects they possess? May they be required to possess only such firearms as are capable of being searched for and seized? The proposed bills are not limited to undetectable or unidentifiable firearms carried into the sterile area, but to all such firearms regardless of where possessed, including in the home. The Second and Fourth Amendments clearly protect possession of a firearm in the home, regardless of whether it is detectable at an airport.

It is well established that a requirement that one furnish incriminating information in registering a firearm violates the Fifth Amendment right against self-incrimination.[45] The courts have upheld the requirement that firearms be declared to common carriers for shipment in interstate commerce only to the extent that such declaration does not create a substantial hazard of self-incrimination.[46]

What would be the status under the Fifth Amendment of requiring persons to possess only such firearms which, if carried in a prohibited place, "communicate" with the police in such manner as to incriminate the possessor? A passenger cannot constitutionally be required to declare possession of a firearm which is illegal in a given place or circumstance. May persons be restricted to owning only such firearms as "declare" themselves and have the owner arrested?

The above Fourth and Fifth Amendment issues are avoided by keeping screening technology apace with firearms technology. Searches of passengers and carryon baggage by current screening systems and those to be developed in the future can be conducted in such manners as to leave the passenger with a choice not to have checked baggage searched for weapons[47] and not to incriminate themselves. To avoid Fourth Amendment violations in the screening of persons and carryon baggage, the devices should be designed to detect only such objects as could be used to stage a hijacking; to the extent technology allows, passengers should retain their privacy in their persons and baggage.

Alternatives to a Firearms Ban

An outright ban on certain firearms is bound to be ineffective in deterring terrorists but will be a Luddite-like burden on technology to the detriment of law-abiding citizens.

Alternatives to such a ban follow:

1. H.R. 2862, introduced by Congressman DeFazio, would direct FAA to conduct research and development to improve the effectiveness of screening devices in detecting explosives, incendiary devices, and concealed weapons. FAA would be required to report on likely advances in such screening for the following five years.

2. At FAA's request, in 1985 the Federal Law Enforcement Training Center developed an Air Marshall Training Program as part of the Administration's response to skyjacking incidents. This program and the use of armed air marshalls on selected high risk flights should be expanded.

3. Penalties for aircraft piracy currently include a minimum 20 year term for an attempt to commit or the act of committing the offense, and the death sentence or life imprisonment where a death results.[48] The death sentence provision must be amended if it is to meet the Supreme Court's current standards. These penalties could be strengthened to deter and punish the use of undetectable firearms in aircraft piracy by adding the following provision: "Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, if such person used, carried, or possessed a plastic or other nonmetal

firearm during and in relation to the commission of aircraft piracy, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed by the crime in which such firearm was used or possessed. No person sentenced under this section shall be eligible for parole during the term of imprisonment imposed herein." This tracks the language of the recently-enacted provision on armor piercing ammunition.[49]

4. Require all airlines to maintain an area to check baggage before x-ray screening, and limit the size of carryon baggage, to enable screening personnel to detect weapons and explosives better. No airline should be allowed again, as did People Express, to deregulate security screening. A draft of a bill which would accomplish this, with baggage dimensions recommended by the Association of Flight Attendants, is included at the end of this testimony.

5. Airport security generally could be improved by better training of x-ray operators and airport police and more intensive background checks of employees with access to the sterile area.

Current security problems are real and should be addressed rather than emphasis being placed on whether hypothetical firearms which do not exist will be detectable by screening devices now being developed.

NOTES

1. FAA Civil Aviation Security Report, No. 86EA720033.

2. FAA Civil Aviation Security Report, No. 86EA720158.

3. Id., No. 85EA720084.

4. 21 C.F.R. Section 1020.40(b)(3).

5. Karen Lantz of the International Federation of Flight Attendants noted that even physical inspection of carryon baggage leaves room for human error: "A more effective measure would be simply to limit the number of carryon bags permitted on board the aircraft, thereby limiting the means by which terrorists may smuggle weapons and explosives on board." International Airport Security and Antihijacking Measures: Hearing on S. 1321, S. 1326, and S. 1343 Before the Subcomm. on Aviation of the Senate Comm. on Commerce, Science, and Transportation, 99th Cong., 1st Sess. 83 (1985).

Similarly, Linda Puchala of the Association of Flight Attendants wrote:

> The Federal Aviation Administration has offered a further reason for limiting carry-on baggage: to foil hijackers and terrorists. With twice as much baggage coming on board as necessary, the job of those X-raying the baggage--an interminable, boring process--is twice as hard. Chaos during the boarding process also makes it more difficult for the flight attendants to perform safety duties, including spotting unaccompanied baggage that may contain explosives. Too Many Carry-On Bags! Washington Post, Aug. 8, 1986, at A15.

6. The rule was proposed by the Association of Flight Attendants as "necessary to fulfill the purpose of existing regulations governing screening of carry-on baggage, and to eliminate existing hazards due to excess carry-on baggage on board aircraft." 49 F.R. 37109 (Sept. 21, 1984). FAA proposed a modified rule in 51 F.R. 19134 (May 27, 1986) and adopted it in 52 F.R. 21472 (June 5, 1987). The key new provision is 14 C.F.R. Section 121.589(a):

> No certificate holder may allow the boarding of carry-on baggage on an airplane unless each passenger's baggage has been scanned to control the size and amount carried on board in accordance with an approved carry-on baggage program in its operations specifications.

7. FAA data disclosed under the Freedom of Information Act reveals that at airports where People Express had departure flights, its passengers accounted for 64% of all airline passengers alleged to have entered the sterile area with firearms. These incidents were invariably inadvertant and due to People Express' location of baggage check-in after instead of before x-ray screening of carryon baggage. See S. Halbrook, Firearms, the Fourth Amendment and Air Carrier Security, 52 JOURNAL OF AIR LAW AND COMMERCE 585, 591 (1987).

8. FAA Civil Aviation Security Report, No. 84EA720172. In the same incident, seven passengers were allowed to board unscreened.

9. 49 U.S.C. Section 1356(a) requires that "all passengers and all property intended to be carried in the aircraft cabin . . . be screened by weapon-detecting procedures" and authorizes "screening only to the extent deemed necessary to assure security. . . ." 49 U.S.C. Section 1357(a) requires "uniform procedures for the inspection, detention, and search of persons and property . . . to assure their safety and to assure that they will receive courteous and efficient treatment. . . ."

10. Testimony of Raymond A. Salazar, FAA Director for Civil Aviation Security, Hearings on H.R. 1785, Subcommittee on Crime, House Committee on Judiciary, May 20, 1987.

11. The following information is based on interviews by the author with Robert Weston, Program Manager of North American Arms, and Wayne Baker, of Freedom Arms.

12. FAA Civil Aviation Security Division (Northwest Mountain Region), No. ANM-700-87-08, March 23, 1987. The same Region issued Bulletin No. ANM-700-87-14, March 25, 1987, which states:

> The barrel, slide, and one spring in the Glock 17,

> are made of metal. This is more metal than found in the so-called "Saturday Night Specials." The "Saturday Night Specials" can be, and are being, detected by both the metal detection devices and the x-ray equipment currently in use in the U.S.

13. 133 CONG. REC., 100th Cong., 1st Sess., H1791 (February 4, 1987).

14. "Kienbusch's chief interest in firearms was as vehicles for the work of virtuoso craftsmen. Nearly all the pieces in his collection, which include masterpieces of cooperation among goldsmith, locksmith, barrel smith, and stocker, were intended for a princely hunting lodge or arms collection and not for the battlefield." 81 Philadelphia Museum of Art Bulletin, No. 345, at 15 (1984).

15. M. Lindsay, MINIATURE FIREARMS 19 (1970).

16. Id. at 22.

17. A letter ruling dated March 17, 1975, from the Assistant Director, Technical and Scientific Services, concluded that a miniature Winchester Model 1873 lever action rifle would be a short barreled rifle under the National Firearms Act. "We would consider classification of these functional miniature firearms as curios and relics . . . ."

18. Rev. Rul. 54-519, I.R.B. 1954-2, 438-439.

19. 107 F.Supp. 450.

20. Id. at 452.

21. Phillip C. McGuire, Associate Director of the Bureau of Alcohol, Tobacco and Firearms, testified last year as follows: "Such items as pen or cane guns are already subject to the provisions of Title II of the Gun Contol Act. As such they are already subject to tight controls. Nor do they seem to be the kind of weapon which could be used to subdue passengers on an aircraft or security personnel." Firearms That Can Escape Detection: Hearings Before the Subcommittee on Crime, House Judiciary Committee, 99th Cong., 2d Sess., 94-95 (1987).

22. 26 U.S.C. Section 5845(e).

23. 26 U.S.C. Section 5845(a).

24. E.g., Catherine Dike, CANE CURIOSA 305-356 (Geneva 1983).

25. See L. Winant, FIREARMS CURIOSA passim (1955).

26. 607 F.2d 917.

27. Id. at 919-920.

28. Id. at 920.

29. Statement of Stephen E. Higgins, House Subcommittee on Crime, February 19, 1986, at 3.

30. Armor Piercing Ammunition and Criminal Misuse and Availability of Machineguns and Silencers, Serial No. 153, Hearings before the Subcommittee on Crime, House Judiciary Committee, 98th Cong., 2d Sess. at 111-112 (1986).

31. Id. at 117.

32. United States v. Lopez, 328 F.Supp. 1077, 1086 (E.D.N.Y. 1971).

33. United States v. Bell, 335 F.Supp. 797, 802 (E.D.N.Y. 1971) (also coins, keys, metal combs.)

34. United States v. Meulener, 351 F.Supp. 1284, 1289 (C.D.Ca. 1972).

35. FAA, AIRCRAFT HIJACKINGS 19 (1986).

36. Id. passim.

37. Id. at 48.

38. Id. at 127.

39. P.L. 99-308, 100 Stat. 449, May 19, 1986.

40. P.L. 274, 55 Stat. 742, October 16, 1941. Rept. No.

1120 (to accompany S. 1579), House Committee on Military Affairs, 77th Cong., 1st Sess., at 2 (August 4, 1941) explains:

> It is not contemplated or even inferred that the President, or any executive board, agency, or officer, would trespass upon the right of the people in this respect. . . . However, in view of the fact that certain totalitarian and dictatorial nations are now engaged in the willful and wholesale destruction of personal rights and liberties, your committee deem it appropriate for the Congress to expressly state that the proposed legislation shall not be construed to impair or infringe the constitutional right of the people to bear arms.

41. See S. Halbrook, THAT EVERY MAN BE ARMED: THE EVOLUTION OF A CONSTITUTIONAL RIGHT 76-77 (1984).

42. Id. at 81.

43. The Right to Keep and Bear Arms: Report of the Subcommittee on the Constitution, Senate Judiciary Committee, 97th Cong., 2d Sess (1982).

44. The case law is analyzed in S. Halbrook, supra note 7, at 634-649.

45. Haynes v. United States, 390 U.S. 85 (1968).

46. See S. Halbrook, supra note 7, at 668-671.

47. Of course, such baggage may be screened for explosives, but the sniffing dogs or vapor detection devices used for such screening are not overly intrusive because they do not "see" the contents of checked baggage. See S. Halbrook, supra note 7, at 619-621.

48. 49 U.S.C. Section 1472 provides:

> (i)(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished--
>
> (A) by imprisonment for not less than 20 years; or

(B) if death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence, or by any other form of intimidation, and with wrongful intent, of any aircraft within the special aircraft jurisdiction of the United States.

49. 18 U.S.C. Section 929(b).

Astrophysics Research Corporation
4031 VIA ORO AVENUE, P.O. BOX 22709, LONG BEACH, CALIFORNIA 90801-5709
TELEPHONE (213) 513-1411 • TELEX 686233 ASTRO HRBO • FAX (213) 513-8593

July 10, 1987 87-PMW-74

Bob Weston
Program Manager
NORTH AMERICAN ARMS
1800 North 300 West
Spanish Fork, UT 84660

Dear Bob:

The two firearms that you sent to test and evaluate (the NAA-22LR and the NAA-22M) were very detectable on our X-ray screening systems as demonstrated by the accompanying photographs. The stainless steel that your guns are manufactured with is opaque (back image) to our X-rays so even if the cylinder is removed the outline of the cylinder and silhouette of the rest of the gun are clearly seen.

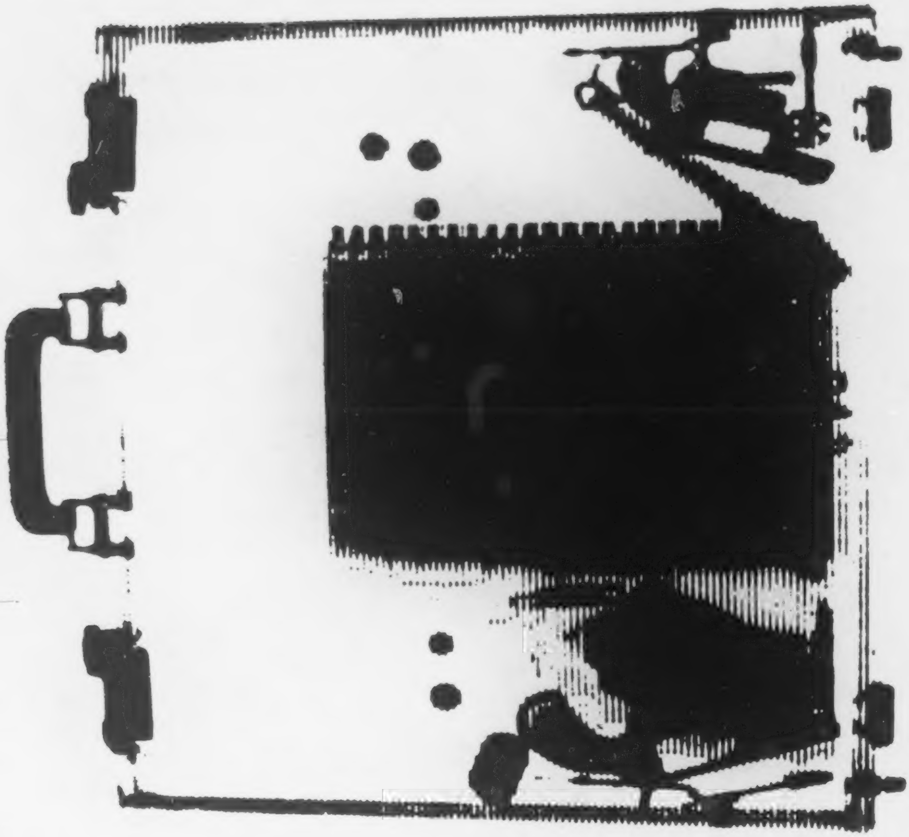
If we can be of further help, please give me a call.

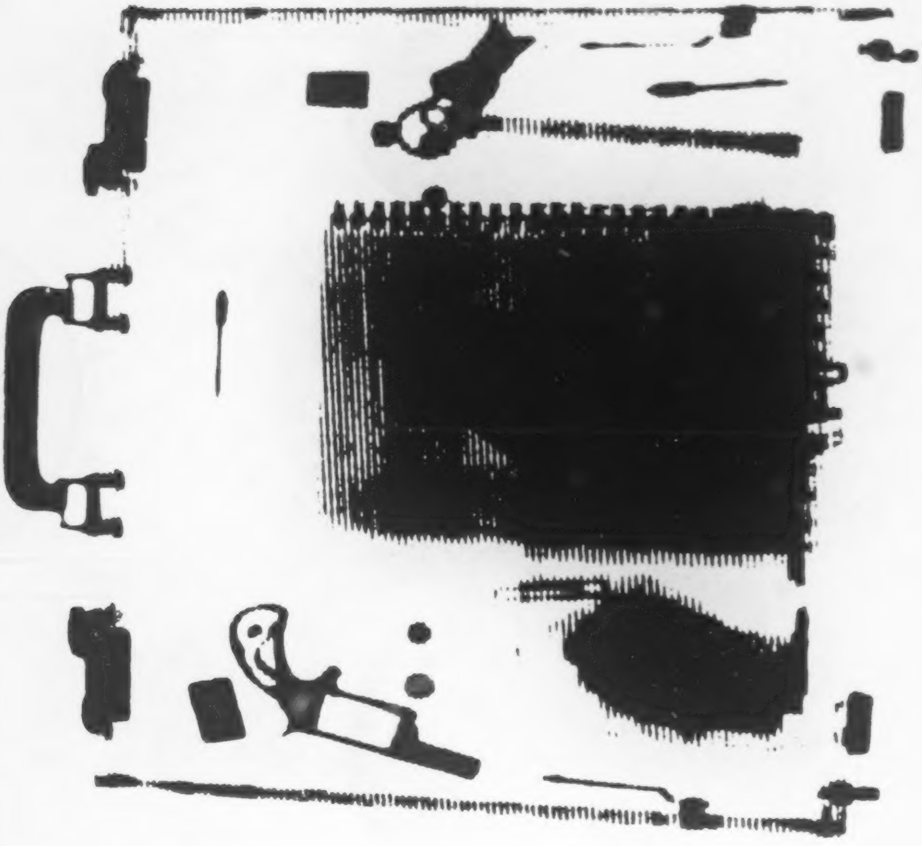
Sincerely,

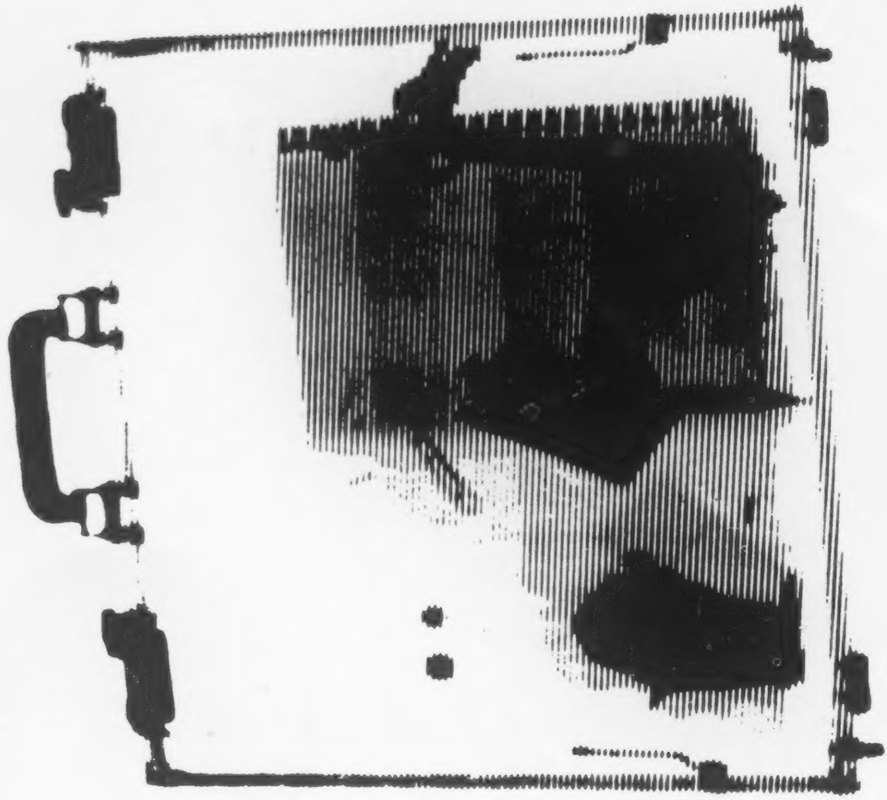
ASTROPHYSICS RESEARCH CORPORATION

Phillip M. Wascher
Sales Manager

PMW/jcm
Enclosures







The
MINIATURE
ARMS
SOCIETY

The Miniature Arms Story

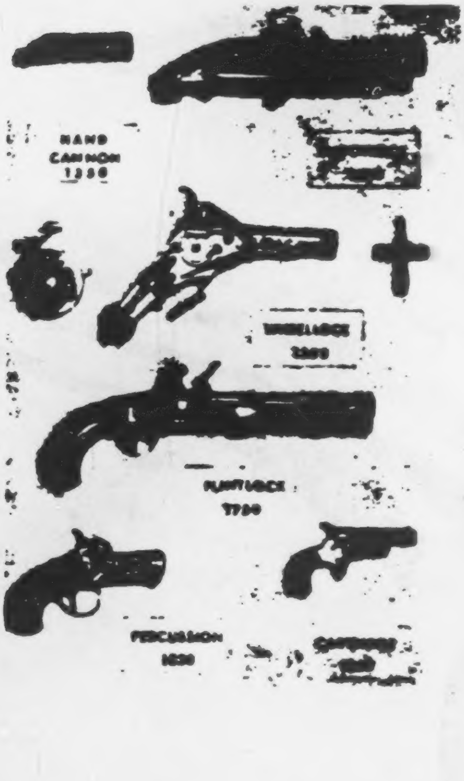
Anything in miniature has an irresistable appeal and miniature weaponry is no exception! Actual arms in miniature date back to the 16th century and were necessary for two important purposes. In the early days of the European guild system a journeyman gunsmith, cutler or armorer had to fabricate, in exact miniature, a fully workable gun, sword or suit of armor to become a master of his trade. Then, before the advent of photography, arms dealers from all over Europe had the logistic problem of transporting their heavy wares across great distances. How much easier it was to carry exact, functioning miniatures and then obtain an important contract by making a gift of the miniature to the customer!

Today, four centuries later, the collecting of functional miniature weaponry falls into four general categories. In order of popularity, these are: guns, edged weapons, cannon and suits of armor. And, since miniatures are the ultimate objects in the arms maker's skill, their possession is the same as any other masterpiece of art, being neither "models" nor other semi-functional representations.

Miniature making is a labor of love and perhaps the appeal of the miniature lies in its very *exclusiveness*. The museum quality, one-of-a-kind miniature requires up to 1,000 hours or more to complete, and even the machine-made miniatures of modern automatic pistols require many hours of painstaking labor. There is no short cut to quality craftsmanship and there will never be a surplus of fine miniature arms.

The size of miniature arms varies by category. Guns and edged weapons exist from ½ to 1/5 in scale, cannon vary from ¼ to 1/20 normal size and suits of armor are between ⅓ and 1/6 the magnitude of a fully articulating "coat of mail".

The makers of miniature arms are scattered throughout the world but most are found in Europe and America. There are less than 35 miniature gun makers in the United States and not many more in continental Europe. Very few commercial companies make miniature guns and those only produce the tiny masterpieces at certain times by contract with an individual maker. While many scales of even the most modern guns exist in miniature, ammunition is a problem. Many ½ scale guns are

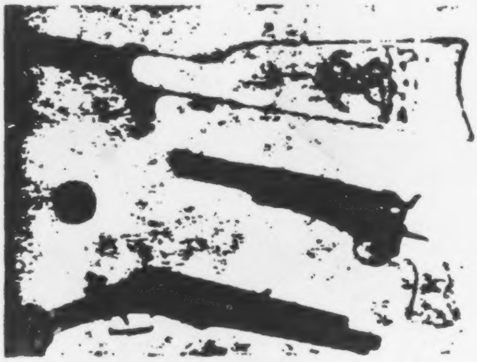


The History of Handguns in ⅓ scale. From the primitive brass Chinese Hand Cannon to the tiny Colt No. 3 Thuer Derringer, all are meticulous reproductions in miniature of the rare original arms. The little hand engraved wheellock has a fully functional lock mechanism fitted into an area less than an inch long!

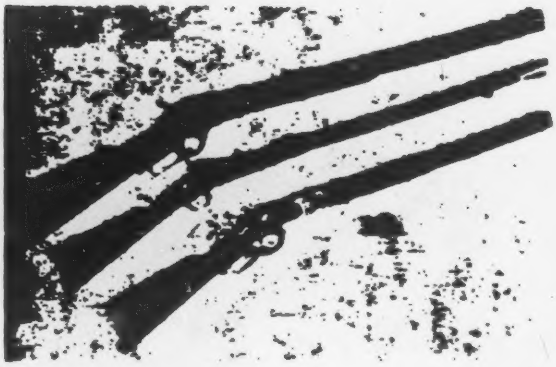
chambered for 22 caliber cartridges, but no ammunition is commercially available for ⅓ or ¼ size pistols, rifles and shotguns. Of course, such ammunition could be made, but most miniature gun collectors treat their miniatures as any other fine weapon which is rarely fired.

The scarcity of miniature weaponry makes it an ideal collectible item. The number of pieces in collections may vary from three to over one hundred fifty. Perhaps the most expensive miniature gun in existence is a Boutet flintlock pistol in ⅓ scale valued in excess of $100,000 which was made in 1962. One of the smallest true miniatures is a Colt Third Model Derringer in 1/5 scale that is barely an inch in length but complete in all aspects including the word "COLT" engraved on the top of the barrel and the letters "41 RF" only several hundredths of an inch high on the side of the barrel.

With modern technology available to him, the miniature arms maker can continue to turn out even better masterpieces, and the collecting of miniature arms has a very bright future indeed!



Two superb miniatures by Walter Agnoletto of Turin, Italy, one of today's outstanding makers. The Colt 44 Army Revolver and Wheellock are both covered with the magnificent hand engraving that is characteristic of Agnoletto's fine craftsmanship. The tiny Colt grips and shoulder stock are hand carved ivory

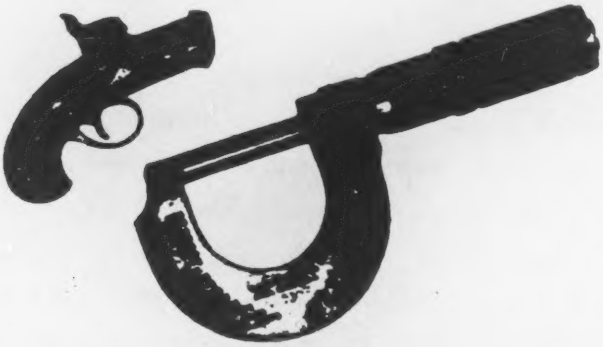


Fine miniatures of longarms are somewhat less commonly seen than handgun types. These pieces represent the historical period of the American West following the Civil War. The "One of One Thousand" 1873 Winchester, 45-70 Springfield "Trapdoor" and 1886 Winchester rifles are all approximately ⅙ actual size.

About the Miniature Arms Society

Though we are known popularly as the "Miniature Arms Society", our official legal name is "Miniature Arms Collectors Makers Society, Ltd." As the name implies, this is a professional association that promotes fellowship and communication among those who are interested in collecting or making all types of miniature arms. The Society publishes a regular bulletin for its members and sponsors exhibits of fine miniatures at gun shows all over the country. The following are the primary purposes and objectives of the Society:

- To acquire and disseminate information about miniature arms.
- To hold scheduled meetings to conduct business and to display and exchange miniature arms.
- To promote the knowledge of miniature arms and their historical importance.
- To establish, uphold and promote the highest of ethical standards in the making and collecting of miniature arms and in associated activities.
- To study and preserve fine miniature arms for posterity.



The Miniature Arms Collectors/Makers Society, Ltd.

For those interested in joining the Society, write to:

Miniature Arms Society
Joseph J. Macewicz, Executive Secretary
104 White Sand Lane
Racine, Wisconsin 53402

© 1987, Miniature Arms Collectors/Makers Society, Ltd

Miniature Arms Collectors-Makers Society, Ltd.

Joseph J. Macewicz - Secretary
104 White Sand Lane
Racine, Wisconsin 53402

Jun 87

We thank you for this opportunity to introduce information on the record concerning miniature firearms. We represent the Miniature Arms Collectors — Makers Society, Ltd., hereafter referred as "the society". The society was organized in 1973 by a group of collectors and makers of miniature arms, and has grown slowly over the years. As of this year, it numbers 57 paid-up members from 6 countries, mostly the U. S. A. We feel that it represents the interests of the estimated 14 makers and 2000 collectors of miniature arms throughout the world.

Miniatures of many things are made and collected. The oldest known miniature is over 4000 years old — a Babylonian clay tablet 5/16" x 1 5/8" from 2060 B. C. I need only refer you to ship and train and automobile models, miniature books, and doll-houses with all of their miniature furniture and accessories. In many of the examples you have doubtless seen in museums and private collections, the craftsmanship in the miniature is of a higher degree than that of the full-sized piece and the consequent cost and value of the miniature is greater than that of the prototype. In addition, exceedingly rare items of immeasurable worth may be duplicated in miniature for the enjoyment of those who might never see the original.

The society notes with dismay the legislation proposed in HR 1785 and S. 465 with its indictment of firearms below a statutory minimum weight, length, and height. Many of the one-half scale and smaller miniatures which our members make and collect would become prima facie illegal and subject to registration and/ or confiscation — a fate which neither they nor we have earned.

The matter was addressed in 1976 by a letter-opinion from the Bureau of Alcohol, Tobacco and Firearms saying, "In general, any replica of a [illegible] loading firearm or other replicas which will not accept conventional rimfire or centerfire ammunition, may be excluded from the above definitions." (of "firearm" under Federal law)

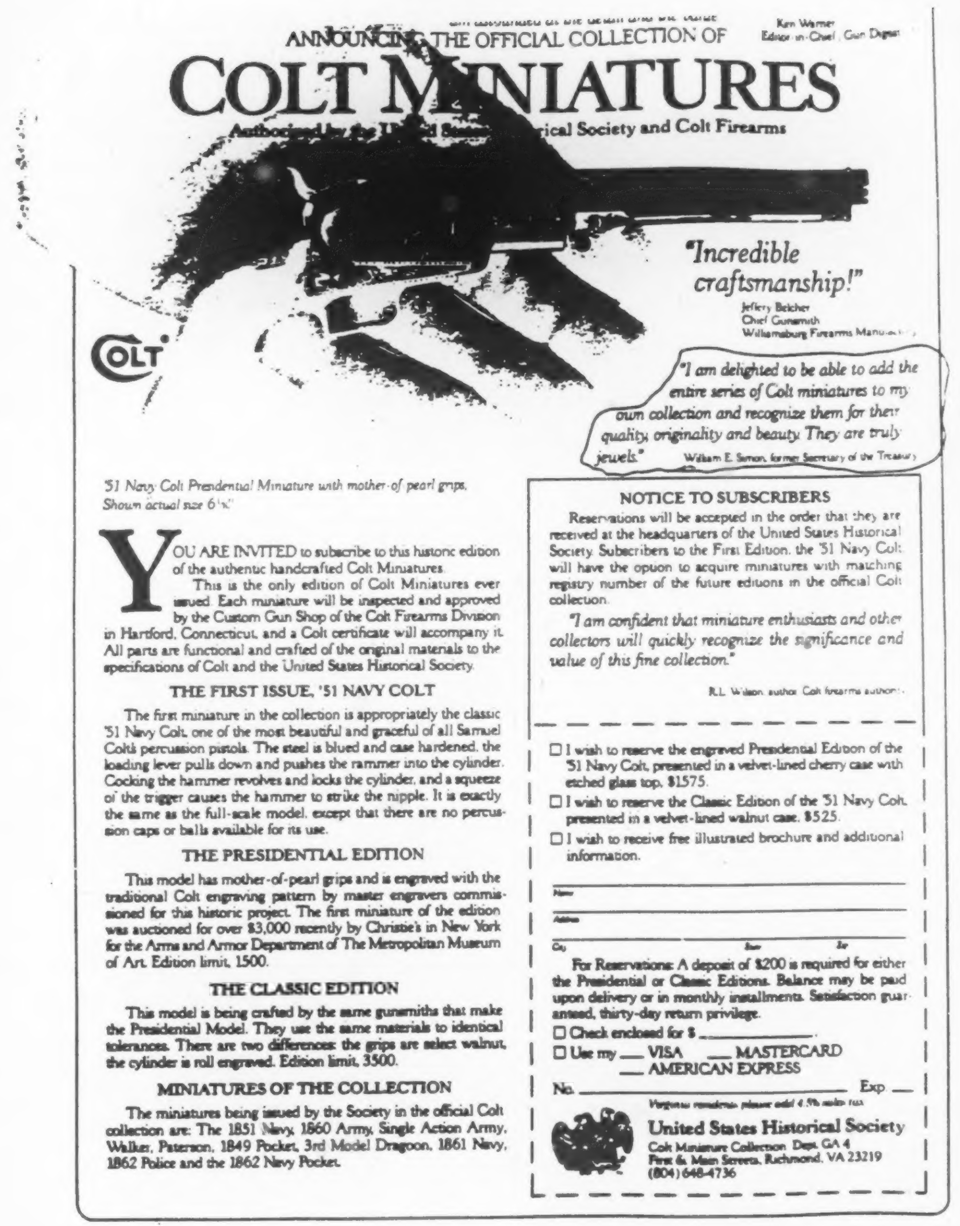
You have already heard testimony to the effect that only a miniscule number of miniature arms will accept conventional ammunition, and thus the vast majority are not firearms by BATF's adequate and strict definition. Let me add as a practical point that very few owners would want to shoot the miniatures anyway, for it is almost impossible to clean them thoroughly enough after firing to prevent corrosion.

If miniature arms were to be justifiably indicted By HR 1785 and S. 465, then under the currently useful concept of "perception of risk" they must present a perceived and actual danger. This concept is already established in the criminal code, such that knives with blades less than 3" in length are not assessed as a risk.

Miniature arms would not be perceived as an effective and actual threat by the intended victims. If they were actually loaded and fired they would be ineffectual. The noise is about that of the common cap-pistol or the tie-clasp blank pistol which is sold in novelty shops all over the world. The wounding effect of the miniature bullet would be less than the U. S. Army's criteria for producing a dangerous wound:

> one inch penetration in pine wood and/ or
> fifty-eight foot-pounds of energy and/ or
> muzzle velocity greater than five hundred feet per second.

Thank you for your courtesy and patience.



am astounded at the detail and the value

Ken Warner
Editor-in-Chief, Gun Digest

ANNOUNCING THE OFFICIAL COLLECTION OF

COLT MINIATURES

Authorized by the U[illegible]rical Society and Colt Firearms

"Incredible craftsmanship!"

Jeffery Belcher
Chief Gunsmith
Williamsburg Firearms Manu[illegible]

"I am delighted to be able to add the entire series of Colt miniatures to my own collection and recognize them for their quality, originality and beauty. They are truly jewels." William E. Simon, former Secretary of the Treasury

'51 Navy Colt Presidential Miniature with mother-of-pearl grips. Shown actual size 6¼"

YOU ARE INVITED to subscribe to this historic edition of the authentic handcrafted Colt Miniatures.

This is the only edition of Colt Miniatures ever issued. Each miniature will be inspected and approved by the Custom Gun Shop of the Colt Firearms Division in Hartford, Connecticut, and a Colt certificate will accompany it. All parts are functional and crafted of the original materials to the specifications of Colt and the United States Historical Society.

THE FIRST ISSUE, '51 NAVY COLT

The first miniature in the collection is appropriately the classic '51 Navy Colt, one of the most beautiful and graceful of all Samuel Colt's percussion pistols. The steel is blued and case hardened, the loading lever pulls down and pushes the rammer into the cylinder. Cocking the hammer revolves and locks the cylinder, and a squeeze of the trigger causes the hammer to strike the nipple. It is exactly the same as the full-scale model, except that there are no percussion caps or balls available for its use.

THE PRESIDENTIAL EDITION

This model has mother-of-pearl grips and is engraved with the traditional Colt engraving pattern by master engravers commissioned for this historic project. The first miniature of the edition was auctioned for over $3,000 recently by Christie's in New York for the Arms and Armor Department of The Metropolitan Museum of Art. Edition limit, 1500.

THE CLASSIC EDITION

This model is being crafted by the same gunsmiths that make the Presidential Model. They use the same materials to identical tolerances. There are two differences: the grips are select walnut, the cylinder is roll engraved. Edition limit, 3500.

MINIATURES OF THE COLLECTION

The miniatures being issued by the Society in the official Colt collection are: The 1851 Navy, 1860 Army, Single Action Army, Walker, Paterson, 1849 Pocket, 3rd Model Dragoon, 1861 Navy, 1862 Police and the 1862 Navy Pocket.

NOTICE TO SUBSCRIBERS

Reservations will be accepted in the order that they are received at the headquarters of the United States Historical Society. Subscribers to the First Edition, the '51 Navy Colt will have the option to acquire miniatures with matching registry number of the future editions in the official Colt collection.

"I am confident that miniature enthusiasts and other collectors will quickly recognize the significance and value of this fine collection."

R.L. Wilson, author, Colt firearms authority

☐ I wish to reserve the engraved Presidential Edition of the '51 Navy Colt, presented in a velvet-lined cherry case with etched glass top. $1575.

☐ I wish to reserve the Classic Edition of the '51 Navy Colt, presented in a velvet-lined walnut case. $525.

☐ I wish to receive free illustrated brochure and additional information.

Name ______________________________

Address ______________________________

City ______________ State ______ Zip ______

For Reservations: A deposit of $200 is required for either the Presidential or Classic Editions. Balance may be paid upon delivery or in monthly installments. Satisfaction guaranteed, thirty-day return privilege.

☐ Check enclosed for $ ____________.

☐ Use my ___ VISA ___ MASTERCARD
___ AMERICAN EXPRESS

No. ______________________________ Exp. ___

Virginia residents please add 4.5% sales tax.

United States Historical Society
Colt Miniature Collection Dept. GA 4
First & Main Streets, Richmond, VA 23219
(804) 648-4736

S._________

A bill to amend Section 1356(a) of Title 49, United States Code, to improve detectability of weapons and explosives in x-ray screening systems at airports and to eliminate safety hazards due to excess carry-on baggage on board aircraft.

Section 1356(a) of Title 49, United States Code, is amended by adding at the end the following sentence:

> (1) The Administrator of the Federal Aviation Administration shall prescribe reasonable regulations requiring each certificate holder to maintain an area to check baggage before x-ray screening, that property carried in the aircraft cabin shall not exceed the dimensions of 9" x 16" x 20" or, in the case of garment bags, shall not exceed 3" in width, and that each certificate holder post conspicuous signs which notify passengers of the requirements of this subsection.
>
> (2) The Administrator shall conduct a feasibility study on improving technologies for screening for and detection of any explosive, incendiary device, or a concealed deadly or dangerous weapon on or about each passenger's person and all property intended to be carried in the aircraft cabin, and of any explosive or incendiary device in checked baggage. Within one year from the date of enactment of this legislation, the Administrator shall report to Congress on the status of such screening and detection technology.

Senator **Metzenbaum**. Thank you, Mr. Baker. Thank you, Mr. Kapelsohn.

Mr. **Baker**. Thank you, Senator.

Senator **Metzenbaum**. Mr. Kapelsohn, we are happy that you remained with us. I thought you were going to leave us, but we are happy that you are here, sir.

[Whereupon, at 11:27 a.m., the subcommittee was adjourned.]

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

AIRPORT OPERATORS COUNCIL INTERNATIONAL

Testimony of

AIRPORT OPERATORS COUNCIL INTERNATIONAL

On

PLASTIC FIREARMS

Before the
Subcommittee on the Constitution
Committee on the Judiciary
United States Senate

July 28, 1987

- AOCI represents the governmental bodies that own and operate the principal airports served by scheduled airlines in the U.S. and around the world.
- AOCI members enplane more than 90% of total domestic and virtually all U.S. international scheduled airline passenger and cargo traffic.
- Worldwide, AOCI's international member airports enplane two-thirds to all airline passengers and cargo on six continents.

International Headquarters: 1220 Nineteenth Street, N.W. Suite 800 Washington, D.C. 20036
Phone (202) 293-8500 Telex 440732 (ITS-UI) Telefax (202) 775-0359 Cable AOCIHQ

Mr. Chairman and Members of the Subcommittee:

The Airport Operators Council International (AOCI) is the association of governmental bodies that own and operate the principal airports in the United States and throughout the world. Our members enplane over 90% of the U.S. air passengers and 75% of the world's air passengers through 800 airports worldwide. Mr. Chairman, we appreciate the opportunity to present our views on the crucial subject of plastic handgun proliferation and our support of the legislation before you.

Civil aviation has proven to be a most attractive target to the world's terrorist element. According to Federal Aviation Administration (FAA) data, between 1969 and 1972, there were 117 hijacking attempts on U.S. scheduled air carrier aircraft for an average of 29 per year during that period. After the implementation of the current civil aviation security system in 1973, as enforced by FAA under Federal Aviation Regulations Parts 107 and 108, the average number of hijacking attempts dropped dramatically to only eight per year.

During the first six months of 1986, there were only three hijacking attempts on U.S. carriers, none of which was successful. It is easy to understand the industry's enthusiasm and support for the current civil aviation security system in the U.S. given these statistics and others, such as: between 1973 and mid-1986, over seven billion persons were screened, almost nine billion pieces of carry-on items were inspected, over 36,000 firearms were detected with 15,000 related arrests, and 117 hijackings or related crimes may have been prevented by the system. So as you can see, although the system is not 100% foolproof, it has been, and is, very effective. All necessary precautions must be taken to maintain and improve the maximum level of security.

In recent years, the U.S. civil aviation industry has seen an increase in terrorist activity both at U.S. air carriers and the international airports they serve. In anticipation of possible airport attacks in the U.S., FAA has worked to strengthen overall security standards, such as requiring more exhaustive background checks on employees with access to secure airport areas. The U.S. Customs Service has recently enacted a similar program on employees who have access to its secure areas.

The Department of Transportation has also, as I am sure you are all aware, been involved Since February 1986 with a review of overall airport and airline security policies in the U.S. A five-part task force was established to look at: 1) the airport perimeter and air operations areas; 2) air carrier security coordinators programs; 3) the passenger screening system at airports; 4) screening of checked baggage; and, 5) explosive detection research and development efforts.

Each of these constituent parts of the task force have, since last year, made assessments of airport and airline security effectiveness by making on-site examinations of facilities and by interviewing airport, airline and user representatives to gather more information on how well the security system works. Several recommendations from the task force have been approved by Secretary of Transportation Elizabeth Dole and have been forwarded to FAA for implementation. AOCI and its members have been actively involved with DOT's task force and are cooperating with FAA in whatever ways are available to improve security through adoption of additional programs. AOCI member airports stand ready to take whatever future actions are necessary to ensure the safety of the traveling public.

Thus, speaking from its great experience and commitment to secure airports, AOCI is greatly alarmed over the advent of plastic firearms which could, in the hands of terrorists, jeopardize airport safety. The primary defense against terrorist infiltration of secure airport areas is the use of x-ray machines and metal detectors. The obvious potential of plastic firearms to escape detection would make them extremely attractive to terrorists.

AOCI strongly supports legislation such as S. 465, to ban the manufacture and importation of plastic weapons that are undetectable. We believe that no firearm should be allowed in this country which is undetectable by current technology standard airport security detection devices. Current technology is emphasized because there now exists no x-ray baggage screening device or magnetometer which will detect a firearm made entirely of plastic. Although efforts are underway by government and private industry to invent hardware capable of detecting all-plastic weaponry, there is no guarantee that those efforts will ever reach fruition.

Some controversy existed among experts concerning whether the highly-publicized Austrian Glock 17 handgun currently in production contains enough metal to be detectable by screening point personnel without extra training and diligence. The FAA and airlines have since determined that the Glock 17 should be detectable under normal circumstances. However, according to FAA, plastics cannot normally be seen in a packed suitcase with standard x-ray equipment. If the suitcase were empty except for a plastic gun, then an image of the gun would be clearly evident. However, most suitcases contain some high density materials with metal parts such as hair dryers, hangers, or shavers that may obscure the x-ray image of low density materials.

It is anticipated that there will be some firearms made of almost all non-metallic substances in the near future as the requisite technology for this purpose already exists.

According to a recent study by the Office of Technology Assessment concerning non-metal firearms, a new-technology x-ray baggage screening device is being developed which will hopefully enable the screener to see even all-plastic items clearly. However, this technology may be some time away from production and, according to the OTA paper, it will "cost several times as much as standard airport x-ray equipment." To replace all the present screening equipment nationwide with new technology equipment would cost air travelers millions of dollars. It seems imprudent to outlay such sums of money for new screening equipment to prevent a threat which can be "nipped in the bud" by the legislation before this Subcommittee.

S. 465 and other pieces of legislation before you would prohibit the manufacture, distribution or importation of any plastic or non-metal weapons which are found by the Secretary of the Treasury to be undetectable by standard airport security systems. We believe such a decision should be made under the guidance of and consultation with the Federal Aviation Administration, as FAA is responsible for all matters relating to civil aviation. We believe enactment of such legislation is an appropriate, reasonable, and necessary step that Congress must take now before it is too late. The time to take preventive action is not after such plastic firearms are fully in production and have gained a foothold in the United States and in terrorists' arsenals, but before they are produced and distributed in such numbers that there would be no feasible way of turning back the threat.

While there may be legitimate recreational uses for plastic firearms, we believe their potential use by terrorists and public safety considerations must be given overriding consideration. In the interest of public safety, it is not unreasonable to require that non-metallic materials used for the manufacture of such firearms be impregnated with sufficient metallic fragments to assist in their detection by preboard passenger screening personnel.

In conclusion, Mr. Chairman, when given an opportunity to not only ensure the traveling public's safety but also save the public and aviation industry millions of dollars which might be needlessly spent, while depriving no one of their right to own currently manufactured firearms, it seems prudent to seize upon it. AOCI urges this Subcommittee and Congress to act promptly on this legislation. The success of the aviation industry's present and future security efforts depends on this crucial action.

Thank you.

THE MYTHS SURROUNDING THE PLASTIC GUN

A WHITE PAPER REPORT

THE PLASTIC GUN

"FACTS - NOT FEAR"
RED EYE ARMS, INC.
March 31, 1987

INTRODUCTION:

For many months the controversy revolving around various bills to ban or not to ban the manufacture of plastic handguns has been bantered about by politicians and lobbyists who have been only half-armed with the real facts concerning this issue.

In this report, we will attempt to put forth the facts surrounding the plastic gun controversy, in hopes that logical and forthright decisions will prevail.

BACKGROUND AND HISTORY:

Due to the many benefits of light plastic weaponry, many countries are either producing or attempting to produce such a weapon. The Russians have already put into service an all-plastic handgun and the Austrians have produced the Glock 17 which is all plastic with the exception of the barrel assembly. The real danger lies in the inability of present detection systems to detect not only plastic guns, but plastic explosives as well. Plastic explosives such as C-4 can be molded in different shapes such as a doll or cigarette lighter, plastic grenades which can be concealed in the mouth, and other plastic items which can be purchased at your local neighborhood store, are all available to those persons intent on crime or terrorist activities. The ability to detect these plastic products, or by making the product itself highly detectable, is the "only" answer. The American public has been lulled into thinking that present detection devices and technology will protect them. Nothing could be further from the truth.

THE NEW TECHNOLOGY:

It is a fact that all plastic firearms are being produced today. Our company, Red Eye Arms, Inc., and David Byron, Inventor of the plastic gun technology, has gone on record stating that we would not build a plastic gun until such time that detection technology was available to detect plastic weapons. The fact is, this technology does exist today and is needed to prevent the already abundant variety of dangerous plastic weapons and explosives available to those that would use them.

The fact that plastic detection technology is not in widespread use today is a complete mystery when one considers the number of extremely dangerous and highly available weapons and products that can be utilized for criminal or terrorist purposes. In addition to the existing plastic detection technology, it is a fact that plastic firearms can be made more detectable than their metal counterpart. This is accomplished by imbedding a passive micro chip into the main body of the weapon. This chip cannot be removed or destroyed without rendering the weapon useless. By utilizing this implant technology and associated detection equipment, weapons will be able to be detected in a 12-foot diameter area. This, combined with existing plastic detection technology, will make the plastic gun more detectable than conventional weaponry. It is also highly recommended that this implant technology be made mandatory in future production of all civilian handguns, be they metal or plastic.

SUMMARY AND CONCLUSIONS:

The most important thing to remember when considering new legislation is that the technology to build plastic weaponry is here now, and it is an absolute fact that other countries are, and will, continue to build and sell plastic weaponry.

America has the opportunity to show the rest of the world that it is not only possible to detect plastic weaponry, but that by adopting and implementing new and existing detection technology, all weapons can be made to be highly detectable.

We must, at this crucial time, take the larger view and assess the consequences of proposed legislation without regard to the fact that plastic weaponry does exist in abundance and will continue to proliferate in spite of legislation passed to ban them. The only way to stop those bent on criminal or terrorist acts is to make them highly visible in the detection net that you can help to create.

"FACTS TO REMEMBER"

FACT: All plastic, part-plastic, and other plastic weapons and explosives are being produced in abundance today.

FACT: Plastic weaponry and explosives will continue to proliferate throughout the world.

FACT: Detection of plastic weaponry and explosives is needed today.

FACT: Plastic detection technology exists today.

FACT: Plastic weaponry can be made more detectable than existing weapons today.

With these facts in mind, the decision can only be **"DETECTION DETERRANCE - NOT BANISHMENT"**, which is impossible.

National Council for a Responsible Firearms Policy, Inc.
7216 Stafford Road, Alexandria, Virginia 22307 (703) 765-2472

Statement submitted by David J. Steinberg, Executive Director, National Council for a Responsible Firearms Policy, to the Subcommittee on the Constitution, Senate Committee on the Judiciary, in hearings on S.465, the Anti-Terrorist Protection Act of 1987
July 28, 1987

The National Council for a Responsible Firearms Policy, formed in 1967, has for the past 20 years urged firearms policies (at all levels of government) fully responsive to the imperatives of public safety and fully respectful of the rights and privileges of all Americans, those who own guns and those who do not. In conformity with these standards, we support the essentials of S.465, a bill to prohibit the manufacture, sale, importation or possession of firearms constructed substantially of plastic or other nonmetal material and thereby capable of readily avoiding security detection by inspection equipment at U.S. airports and other places where security protection is vital to the national interest.

Our Council has never proposed, or expressed any support for, the banning of handguns or other firearms (except for extraordinarily small handguns if an appropriate definition could be found that protected the legitimate interests of law-abiding gun owners as well as the overall public interest). Our support for the bill in question is responsive to a special danger to public safety, indeed to national security, and is contingent on the lack of security devices capable of readily detecting firearms made substantially of plastic or other nonmetal material.

We have no illusions about how far such legislation can go toward stopping, deterring or reducing terrorism. But we believe that whatever contribution it makes toward these objectives is a rational, reasonable and responsible contribution to public safety, and, if properly administered, will not in any way impair the rights and privileges of legitimate, law-abiding and responsible gun owners. To help ensure that these rights and privileges are not impaired by such legislation, and that the overall public interest is amply served, we urge the firearms bureau of the Treasury Department to seek, and take appropriate account of, the views of the public in designating firearms for the types of control authorized in such legislation.

American Association of Airport Executives
4224 KING STREET ■ ALEXANDRIA, VIRGINIA 22302 ■ (703) 824-0500

July 27, 1987

President
R. C. SMITH
Modesto, California
First Vice President
ROBERT H. WADDLE
Columbia, South Carolina
Second Vice President
JAMES E. JOHNSON
Moline, Illinois
Secretary/Treasurer
KENT G. GEORGE
Reading, Pennsylvania
Immediate Past President
LARRY W. HEDRICK
Buffalo, New York
Directors
JOHN D. ARMOUR
Boston, Massachusetts
TIMOTHY L. CAMPBELL
Nashville, Tennessee
PETER L. DRAHN
Madison, Wisconsin
GERALD P. FITZGERALD
New York, New York
JACK H. FRAZELLE
Seattle, Washington
DANIEL E. GUDAS
San Antonio, Texas
WILLIAM S. HAMILTON
Louisville, Kentucky
R. LOWELL PRATTE
Albuquerque, New Mexico
J. BRUCE PUTNAM
Billings, Montana
ROBERT J. SPITLER
Indianapolis, Indiana
RALPH G. TONSETH
Fresno, California
RICHARD I. TRAILL
Phoenix, Arizona
Executive Vice President
CHARLES M. BARCLAY
Alexandria, Virginia

The Honorable Howard W. Metzenbaum
Chairman
Subcommittee on the Constitution
United States Senate
Washington, D.C. 20510

Dear Senator Metzenbaum:

On behalf of the American Association of Airport Executives and the 1,100 airport executives it represents, I wish to voice our support for the passage of S. 465, "To Prohibit the Manufacture, Importation, Sale or Possession of Firearms, not Detectable by Metal Detection and X-ray Systems Commonly used at Airports in the United States."

The safe transportation of the 410 million passengers who will travel through our nation's airports this year is of prime importance to airport executives. At present, a combination of the best training and equipment available has served well the system of aviation security. Given the fact that 1716 firearms were detected in just the last six months of 1986, according to the latest report of the FAA's Office of Civil Aviation Security, it is obvious that the system is working as designed.

However, present technology in weapons detection has been designed to detect the firearms presently available to the public. If plastic handguns are allowed to be produced without first being "coded" for detection or at least put on hold until more sophisticated screening equipment is developed, the public will be put into the position of traveling on a system that could not provide them with the same high level of security they enjoy today.

While the aviation industry does not wish to permanently deprive the American public the freedom of purchasing plastic or other difficult to detect firearms, I believe it is of paramount importance that the means of detecting such firearms be in place first. The American traveling public expects and deserves the safest aviation system in the world, the passage of S. 465 is another important means of assuring that aviation security is not compromised.

Sincerely,

John Armour

John D. Armour
Chairman
Safety & Security Committee